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MANAGEMENT PREPARES FOR COLLECTIVE BARGAINING
AT THE
NAVAL MISSILE CENTER

By

T. C. LOCKHART
Target Department

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NAVAL MISSILE CENTER
Point Mugu, California

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NAVAL MISSILE CENTER

AN ACTIVITY OF THE NAVAL AIR SYSTEMS COMMAND

L. A. HOPKINS, CAPT USN
Commanding Officer

D. F. SULLIVAN
Technical Director

This report is a thesis submitted to La Verne College in partial fulfillment of requirements for a senior thesis in economics.

CDR L. O. Fortner, Target Officer, has reviewed this report for publication.

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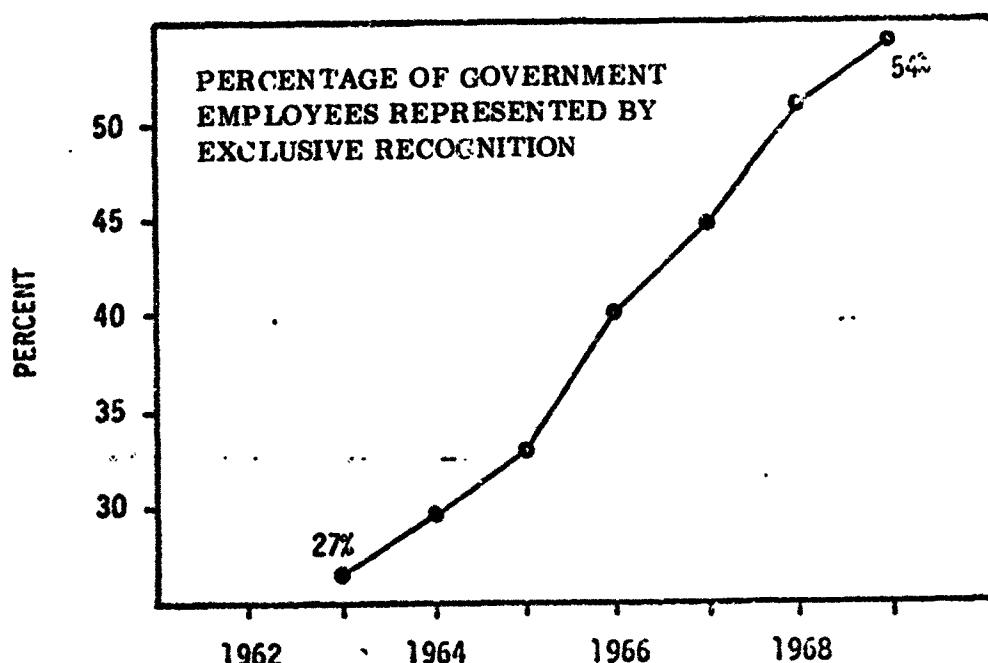
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SUMMARY

The Navy has historically been one of the key departments involved in labor relations. These labor relations were quite stormy from the founding of this country until after the turn of the 20th century. Since that time the employee organizations and union membership have grown

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almost continuously. These organizations had little effect on the Navy since their only means of accomplishing desired goals was through lobbyists in Congress.

The signing of Executive Order 10988 by President Kennedy in January 1962 was hailed as the "Magna Charta" for labor relations in public employment as it granted Federal employees collective bargaining rights in limited areas. The policies established were quickly taken up by state, county, and municipal governments. Under the policy of Employee-Management Cooperation established by Executive Order 10988, Federal employee union membership leaped from 33 percent of all Federal employees in 1961 to 52 percent in 1969. With this large increase in union membership and experience gained during that eight-year period, many inequities and problem areas were recognized by both union and management officials. A change in the labor relations policy was required.

Executive Order 11491 was signed by President Nixon in October 1969 to implement changes to the Employee-Management Cooperation policy. By Executive Order 11491 a Labor-Relations Program was established which conforms more closely to that of the Labor-Management Relations (Taft-Hartley) Act which governs labor relations in the private sector. The new Executive Order has met varying degrees of acceptance and dissatisfaction on the part of various labor organizations.

The postal strike and the sick-out by air controllers during March 1970 marked the end of a comfortable and relaxed period of labor relations in the Federal government. These, along with a younger work force with a different set of values are coupled together with racism to introduce a period of employee activism and militancy that will be felt at all levels of federal, state, county, and municipal governments.

The Government that had relied on the strict and punitive strike-ban law, found the law ineffective in dealing with the postal strike as public sentiment favored the postal workers.

With this background of historical events in the field of labor relations in the public sector, the Naval Missile Center is preparing to negotiate its first union contract. The National Association of Government Employees (NAGE) has been granted exclusive recognition for the 320 employees in a bargaining unit of all nonsupervisory wage board employees. These negotiations come at a time of rapid developments and at a time of major unrest in Federal labor relations. A precedent has been set on the right to bargain on wages, fringe benefits, and other money items. The strike-ban law has been proven ineffective and is being challenged in the courts. Union members are pressing their leaders to be more aggressive. The Federal Service traditions in labor-relations have been shattered and Federal officials must become extremely careful in dealing with the employee organizations they formerly brushed off or ignored.

For the Naval Missile Center to benefit from the union contract to be negotiated there are several things it must accomplish. First it must develop a positive attitude toward cooperative labor relations by willingly acknowledging the right of the union to represent the employees of the unit. It must establish a program of two-way communications with all supervisory personnel so they actually become part of management. It must establish a program for supervisors so they are completely familiar with the terms of the negotiated agreement. It must establish a retraining program to reorient the supervisors to a changing group situation involving the emotional reactions of the supervisors to

unionism. Last, the Naval Missile Center must prepare the negotiation team so it can take advantage of the opportunities presented by the negotiation process and so it can create an agreement that will promote the effective and efficient operation of the Naval Missile Center.

Chapter 1

INTRODUCTION

The purpose of this thesis is to describe the problems facing the Naval Missile Center in dealing with labor unions. Although the Navy has historically been one of the key departments of the Federal government involved in labor relations, until recently little, if any, effect of employee organizations or employee unions had been experienced by the management of the Naval Missile Center.

The Naval Missile Center was started shortly after cessation of World War II hostilities. The Department of the Navy, in need of an unrestricted testing range to evaluate some of the military weapons captured from the axis nations, created a Naval missile test facility at Point Mugu, California. In the span of two and one-half decades since 1946, this complex grew from a minor test station to one of the most important weapon test complexes maintained by the military services. Its organization has changed to include the Pacific Missile Range, Naval Air Station, and the Naval Missile Center as independent commands. Additionally, four tenant commands are located at Point Mugu. The Range facility extends thousands of miles into the Pacific Ocean with an

industrial value of approximately half a billion dollars. The entire Point Mugu complex is manned by a total of 8,757 military, civilian, and contractor personnel, of which 1,550 civilians and 714 military personnel are assigned to the Naval Missile Center.

Throughout its existence the Naval Missile Center has been free of major problems of any nature. Generally the task assignments are decided by parent organizations and ample funds are supplied for accomplishment of the tasks. The work force has been exceptionally stable, and aside from normal minor complaints to be expected in any organization, an overall expression of contentment has been the rule instead of the exception with formal grievances averaging less than two per year. During the period of 1966 through 1968, Department of Defense policy dictated the conversion of approximately 364 military and 89 contractor positions to civil service. These, for the large part, were industrial type jobs (blue-collar) such as mechanics of all classifications. This represented a significant shift in the make up of the civilian work force which had always been largely scientific and technically oriented.

In late 1969 it became apparent that labor relations were not as they had been. An increasing number of blue-collar workers were joining unions and wanted a say in the working conditions which affected them. While tranquility in labor relations had been the accepted pattern of work relationship, the increasing number of skilled and unskilled blue-collar workers joining unions indicated growing unrest. Large cuts in the Federal budget aggravated the situation by an eminent danger of deletion of projects, shortage of funds, and possible reductions in force. This placed the Naval Missile Center's management in a situation entirely new and foreign to their former precepts.

Union Recognition

Under Executive Order 10988 of 1962, informal recognition was granted by the Naval Missile Center to the American Federation of Government Employees (AFGE), the International Association of Machinists (IAM), and the National Federation of Federal Employees (NFFE). Formal recognition was granted to the National Association of Government Employees (NAGE) for the unit of all ungraded (blue-collar) nonsupervisory personnel. The granting of this recognition represented very little effort on the part of management. The majority of the Naval Missile Center supervisors and management personnel were oblivious of the fact that employees were joining unions and wanted a say in the working conditions affecting the employees of the Center. The paternalistic attitude, so prevalent in Government supervisory personnel, also existed at the Naval Missile Center.

The formal recognition of NAGE was converted to exclusive recognition on November 14, 1969, thereby entitling NAGE to act for and to negotiate agreements covering all employees in the unit. This placed the Naval Missile Center management in an unfamiliar position, that of collective-bargaining, negotiating a contract for a unit of its employees, with an employee union.

The supervisors were astounded. From their paternalistic view, it was unbelievable that the employees had joined a union in that number. Why should they join a union? The working conditions were outstanding, they couldn't bargain on money items, a new merit promotion plan had just been effected, they had an excellent grievance procedure, and the supervisors knew what was good for the employees and always took care of them. In December 1969 it was the consensus of all supervisors contacted that

the employees did not know what they were doing. Through collective bargaining, they would lose the privileges management bestowed upon them and there was nothing for them to really gain.

This new and important experience will undoubtedly grow in magnitude, depth, and impact on employee-management relations. Such an experience, if properly handled by supervisors and a contract properly negotiated, could be extremely beneficial to both the employees and management. Conversely, if the situation is badly handled, it could become quite destructive to all concerned.

To properly explore the problem, historical data leading to the present day labor-relations posture in the Federal government is required for background information, and recent developments must be included which may have enormous impact on future public sector¹ labor-relations.

Delimitations

Due to the magnitude of the broad subject of labor-relations in the public sector, the major emphasis has been placed on Navy labor relations. Some reference must be made, however, to both the private and public sector due to the interrelations of these areas.

Text book references on recent events, since the issuance of Executive Order 11491 by President Nixon in November 1969, are non-existent. Because of this, the news media, periodicals, government publications, and personal experience gained in labor-relations seminars are widely used.

¹ Public sector is the term used to refer to a government agency, and government employees; private sector refers to private industry and its employees.

Chapter 2

HISTORICAL BACKGROUND

When one is preparing to participate in a new field, one of the best ways to gain an understanding of the field is to peruse the historical information on the subject. Labor Relations in the Navy is no exception. Since government employees had been specifically exempted from all Labor Relations legislation, one may be led to believe that Government Employee Organization and union activity would be minimal. This, however, is not the case.

Period I. 1777 to 1868

The Navy has historically been one of the key departments of the Federal government involved in labor relations. Since the start of this country up until the 1930s, the U. S. Navy has employed over 80 percent of all blue-collar workers in the Federal Government (Post Office excluded). Initially the Navy followed a "no-nonsense" hire-and-fire policy with employees. The Secretary of the Navy, for example, in 1807 fired blacksmiths who complained of low wages at the Portland Navy Yard. The early trade union movement struggle for the establishment of a ten-hour work

day in the 1830s first made Federal authorities aware that an employee relations problem existed. The Department of the Navy has the dubious distinction of being the first U. S. Government agency whose civilian employees went on strike.¹ The employees of the Navy yard in Washington, D. C. struck for a change of hours and a general redress of grievances in August 1835. The major issue was for a ten-hour day to replace the sunup to sundown work day. This strike was unsuccessful. After an appeal to the Secretary of the Navy failed, the men returned to work without a settlement. In July 1836, the shipwrights, calkers, and riggers at the Philadelphia Navy Yard struck for the same ten-hour day which prevailed at private shipyards. Appeals were made directly to Congress and the President and after several weeks President Andrew Jackson established a ten-hour work day, but only at that Yard. President Martin Van Buren was accused of buying votes in March 1840, an election year, when he established the ten-hour work day for all Federal employees engaged in public works. The Executive Order provided specifically that no reduction in pay would be effected because of the shorter work hours. On December 16, 1852, the Navy interpreted Van Buren's Executive Order as not applying to its employees and shifted to an eleven-hour day. This resulted in widespread walkoffs and strikes followed. Within three days the Navy acceded to the strikers' demands.

By 1850 national unions began to organize throughout the Eastern Seaboard. As soon as the ten-hour day had been established, agitation began for the eight-hour day. At the outbreak of the Civil War, several

¹Commander Chantee Lewis, U.S.N., "Changing Climate in Federal Labor Relations," U. S. Naval Institute Proceedings, (March, 1965) pp 60-69.

private shipyards were on the eight-hour day. In December 1861, the Congress enacted the first wage law for mechanics and workmen in the Navy. In this Act the principle was adopted of paying the prevailing rate for comparable work based upon surveys of private establishment in the immediate vicinity of Naval activities. This Act was a direct outgrowth of many petitions to the Congress by labor unions over the previous twenty years to overcome inequities and to stabilize the labor situation in Naval shipyards. In 1864, as an outgrowth of the Act of 1861, the Navy established its first wage board.

Period II. 1868 to 1961

The Congress enacted the first eight-hour day statute for all laborers, workmen, and mechanics employed by or on behalf of the U. S. Government in 1868. The Secretary of the Navy interpreted the Act as allowing him considerable discretion. He declined to grant employees the same pay for a 20 percent cut in working hours. Although this was in flagrant disregard of the intent of the Act, the Secretary of the Navy maintained his position until the Congress enacted a joint resolution that forced the Navy to pay all mechanics and workmen the same pay for eight hours as they had received previously for ten hours of work.

The influence of labor unions thus grew stronger, as workmen benefited from union intercession in their behalf. The development of unions, to which Navy employees belonged, during the late 1800s and early 1900s is presented in Table 1.

Management was not receptive to the growth of trade unions in the Navy and in 1902 obtained an Executive Order which prohibited Federal employees, as individuals, from making petitions to Congress. The

Table 1
Early Unions

Unions	Year
American Federation of Labor	1886
Patternmakers League	1887
International Association of Machinist (IAM)	1888
IAM locals	1892
Electrical Workers Local	1901
District No. 44 IAM (to handle affairs of Government employees)	1904
Metal trades department of IAM	1909

Executive Order was reissued in revised form in 1906, 1908, and 1912.

The effects of these Executive Orders were removed by the passing of the Lloyd-LaFollette Act of 1912. This Act also permitted employees to join unions but prohibited membership in unions which asserted the right to strike.

Union activity in the Navy fluctuated during the early 20th century. Franklin D. Roosevelt, as undersecretary of the Navy, encouraged the Navy employees to organize for their own betterment prior to World War I. After the war with reduction of work, the union activity lessened. Then with the depression, employment and union activity was even lower. However, in 1934 the forty-hour work week for Navy's blue-collar workers became law at the urging of the labor unions. In 1939, with the war in Europe, the Navy's building program resulted in overtime and unlimited hiring, and the union activities began in earnest.

As union strength continued to grow, Federal laws such as the

Wagner Act of 1935, the Taft-Hartley Act of 1947, and the Labor-Management Relations Act of 1959 were enacted to govern union relations with private industry. The Government was historically anti-organized labor until the turn of the century. Laws strengthening the position of organized labor began with the Clayton Anti-trust Act of 1914. As shown by Table 2, all subsequent laws until the Taft-Hartley Act of 1947 were pro-union. The Taft-Hartley Act tended to balance the scale by prescribing standards of conduct for both unions and employers. By this period of time the Democratic party has established itself as pro-organized labor and the Republican party as anti-organized labor. President Truman vetoed the Taft-Hartley law, but it was passed over his veto by a largely Republican Congress. The Republican party has been at odds with organized labor for several years. The final split came in 1959.

The days of impartiality were over. If anything more were needed, the Landrum-Griffin Act of 1959, passed with the backing of President Eisenhower, was the clinching argument. Organized labor was now a full political partner of the Democratic party.²

With the steady growth of union members among Government employees and the growth of private industry type of Government operations, it became more difficult to rationalize why Government employees should not be governed by Taft-Hartley procedures.

This apparent contrast in standards led to the introduction of over 30 bills in the 87th Congress (1961) relating to employee-management relations in the Federal service.³

²Orme W. Phelps, Introduction to Labor Economics, (New York: McGraw-Hill Book Co., 1967), p. 206

³Lewis, op. cit., p. 65.

Table 2
Major Labor Legislation

Year	Title	Major Effect
1890	Sherman Anti-trust Act	Unions not mentioned but law was used to curb union activities.
1914	Clayton Anti-trust Act	Called labor's Magna Charta. Removed labor from prosecution under the Sherman Anti-trust Act.
1926	Railway Labor Act	Accepted basic premise of collective bargaining.
1932	Norris-LaGuardia Act	Ruled out federal enforceability of "yellow dog" contracts (signing a contract not to join unions as a condition of employment). Virtually wiped out injunctive interference by courts in labor disputes. Recognized the validity of boycotting and picketing.
1933	National Industrial Recovery Act	Encouraged collective bargaining.
1935	National Labor Relations (Wagner) Act	Established employee rights to join unions, engage in concerted activities for purpose of collective bargaining and the National Labor Relations Board to ensure employers do not engage in unfair labor practices.
1947	Labor-Management Relations (Taft-Hartley) Act	Prescribed standards of conduct for both unions and employers. Banned closed shops. Unfair labor practices on part of unions defined. Unions held accountable. Secondary boycotts and jurisdictional strike made illegal. Supervisors defined and excluded from collective bargaining rights with employers. Established a 60-day strikeless period. Injunctive procedures for temporary suspension of strikes in essential industries. New conciliation and mediation machinery established with the National Labor Relations Board expanded to a quasi-judicial function.
1959	Union Financial Disclosure (Landrum-Griffin) Act	Required unions to report financial activities.

On June 22, 1961, President Kennedy established a Task Force to make recommendations on employee-management relations in the Federal service. Membership of the committee was as follows:

The Honorable Arthur J. Goldberg, Chairman
Secretary of Labor

The Honorable John W. Macy, Jr., Vice Chairman
Chairman U. S. Civil Service Commission

The Honorable David E. Bell
Director, Bureau of the Budget

The Honorable J. Edward Day
Postmaster General

The Honorable Robert F. McNamara
Secretary of Defense

In their letter to the President of November 30, 1961, the Task Force said in part:

The employee organizations of the Federal Government are not strangers in our midst. Some of the largest date back to the 19th century. Although they have enlisted some 33 percent of Federal employees; for decades they have maintained themselves as nationwide, stable, responsible organizations.

The Task Force believes that the time has come to establish a government-wide Presidential policy to acknowledge the legitimate role which these organizations should have in the formulation and implementation of Federal personnel policies and practices.⁴

If the Executive Branch did not take action, the Congress would pass laws which would probably be less flexible and erode command prerogatives. Therefore, in January President Kennedy, acting on the recommendations of the Task Force, established a government-wide "Policy for

⁴A Policy for Employee-Management Cooperation in the Federal Service. Report of the President's Task Force on Employee-Management Relations in the Federal Service, (Washington, D.C.: Government Printing Office, November 30, 1961), p. iii

"Employer-Management Cooperation in the Federal Service," which contained the specific recommendations of the Task Force, by issuing Executive Order 10988.

In a statement regarding the Task Force work, and the resultant action, President Kennedy stated on December 5, 1961:

As an employer of more than 2,300,000 civilian employees, the Federal Government has long had an obligation to undertake the reappraisal which has now been made so well by the Task Force.⁵

Period III. Executive Order 10988. 1962 to 1969

The prime purpose of Executive Order 10988, issued by President Kennedy on January 17, 1962, was to establish a policy for employee-management cooperation in the Federal service. This Order was hailed as the "Magna Charta" for labor relations in public employment since it provided collective bargaining on limited issues.⁶

The efforts of government and unions have made collective bargaining the most highly sought and carefully guarded of all labor objectives. For unions, collective bargaining is the crucial function; successful bargaining is to unions what competitive success is to business firms. For government, collective bargaining is a means of averting industrial strife; it means settlement at the conference table of issues which would otherwise be resolved only by industrial warfare.⁷

Executive Order 10988 is provided in appendix A. Major provisions of Executive Order 10988 are as follows:

⁵Ibid., p. i.

⁶Address by W. V. Gill, Director, Office of Labor-Management Relations, U. S. Civil Service Commission to the Los Angeles Federal Executive Board/San Diego Federal Executive Assn., San Diego, Calif., November 4, 1969.

⁷Guidebook to Labor Relations, (9th ed.; Chicago, Ill.: Commerce Clearing House, Inc., 1969), p. 59.

1. The Federal Employee's Right to Organize: Federal employees have the right to join or refrain from joining bonafide employee organizations.⁸

2. Recognition of Employee Organizations: Three types of recognition were established for bonafide employee organizations: informal, formal, and exclusive recognition.

Informal recognition. Granted to any organization regardless of what status has been given to other organizations. It gives an organization the right to be heard on matters of interest to its members but the agency does not have to seek its views.

Formal recognition. Granted to any organization representing ten percent of the employees in a unit, where no exclusive recognition has been granted. It gives the organization a right to be consulted on matters of interest to its members.

Exclusive recognition. Granted to any organization chosen by a majority of the employees in a unit.

Modern practice begins with the definition of the appropriate bargaining unit in terms of the jobs to be included. A bargaining unit may be defined by craft lines, further bounded by specific firms or localities. Again a bargaining unit may include a wide range of occupations within a particular field. The NLRB is authorized to designate appropriate bargaining units.⁹

⁸President's Task Force, op. cit., p. iv. A bonafide employee organization is defined as an organization of Federal employees that is free of restrictions or practices depriving membership because of race, color, creed or national origin; that is free of all corrupt influences, and does not assert the right to strike or advocate the overthrow of the U. S. Government.

⁹Dale Yoder, Personnel Management and Industrial Relations, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1962), p. 189.

It gives the organization a right of collective bargaining with management. Agreements so negotiated must not conflict with existing Federal laws or regulations, or with agency¹⁰ regulations, or with government-wide personnel policies, or with the authority of the Congress over various personnel matters.

3. Veteran, Religious, and Social Organizations: The recognition of employee organizations is not to affect or preclude relations with veteran, religious, and social organizations in their limited or special dealings with Government agencies.

4. Scope of Consultations and Negotiations with Employee Organizations: According to the type of recognition granted, consultation and negotiations may concern matters in the area of working conditions and personnel policy within the limits of applicable and future Federal laws, regulations, Federal personnel manual policies, and be consistent with the principles of the merit system. All negotiated agreements require the approval of the agency (not activity) head or his designated representative.¹¹ Obligation to consult or negotiate does not include agency's mission, budget, organization, and assignment of personnel or the technology of performing work or to take necessary action during an emergency. Agreements can include provisions for the arbitration of grievances but can not diminish nor impair any rights the employees would otherwise have. Arbitration is advisory in nature with any decisions or recommendations

¹⁰An agency means Executive Branch department such as Navy Department; activity refers to a command such as the Naval Missile Center.

¹¹In the Navy, all agreements required approval by Office of Civilian Manpower Management (OCMM) in Washington, D. C.

subject to approval by the agency head and can be invoked only with the approval of the individual employee or employees concerned.

5. Hours of Conduct of Business: Employees must conduct union business such as membership drives, collecting dues, etc., during nonduty hours of employees concerned (off the clock). Officially requested or approved meetings between union and management representatives should be on official time (on the clock) whenever practicable. The agencys may require negotiations to be conducted off the clock.

6. Officers of Employee Organization: Any employee has the right to be an officer or representative of the employee organization except where there is conflict of interest, or his union work is otherwise incompatible with law or official duties. However, a bargaining unit may not include managerial executives, nonclerical personnel workers, or supervisors with employees supervised, or professionals with nonprofessionals unless so voted by the professionals. Supervisor organizations may be recognized as employee organizations.

7. Resolving Impasses: The management and employee organization may agree on techniques to assist in resolving impasses but arbitration may not be used.

8. Administration: The Civil Service Commission and the Department of Labor shall jointly prepare (1) proposed standards of conduct for employee organizations, and (2) a proposed code of fair labor practices in employee-management relations in the Federal service.

The President's temporary committee on the Implementation of the Federal Employee-Management Relations program was established to approve the standards and code as well as to advise the President on any problems in implementing the program.

Each agency was responsible for observing and enforcing the order, the standards of conduct, and the code of fair labor practices in its own operations with guidance, technical advice, and training assistance by the Civil Service Commission.

The growth of employee organizations under Executive Order 10988 has been tremendous. In 1961, there were only twenty-nine exclusive units, all in Tennessee Valley Authority and the Department of the Interior. These units represented 19,000 employees. In 1969, eight years later, there were 2,305 exclusive units in thirty-five agencies representing 1,416,073 employees. Figure 1 shows growth of exclusive units in the Federal government, and figure 2 shows the growth of exclusive units in the Navy. Thirty-three percent of all Federal employees were members of employee organizations in 1961; this had grown to 52 percent by 1969. Figure 3 shows the percentage of union members of nonagricultural establishment employees while figure 4 shows the increasing percentage of Federal government employees represented by unions with exclusive recognition. There have been 1,181 agreements negotiated under Executive Order 10988 covering 1,175,524 employees or 43 percent of the Federal work force. There have been 800,000 employees who have made voluntary authorization for payroll deductions for union dues amounting to \$23,000,000.¹² Figure 5 shows the growth of Federal government employees in units represented by unions with exclusive recognition. Figure 6 shows the growth of Navy employees in units represented by unions with exclusive recognition.

¹² Report and Recommendations on Labor-Management Relations in the Federal Service, (Washington: Government Printing Office, August 1969), pp. 2-3.

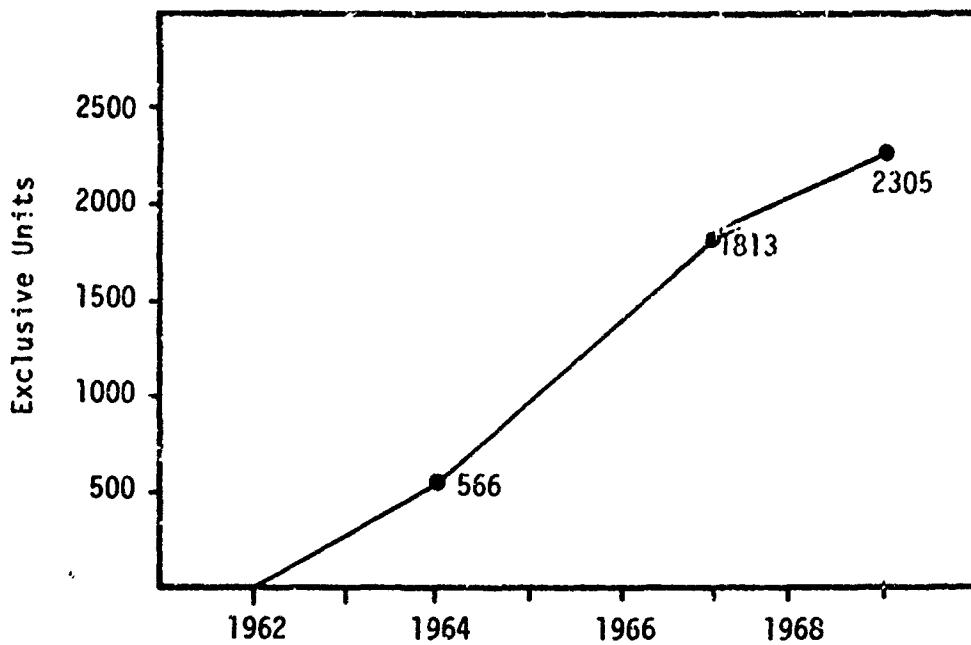


Figure 1. Growth of Exclusive Units in the Federal Government
(Compiled from references in bibliography marked with an asterisk)

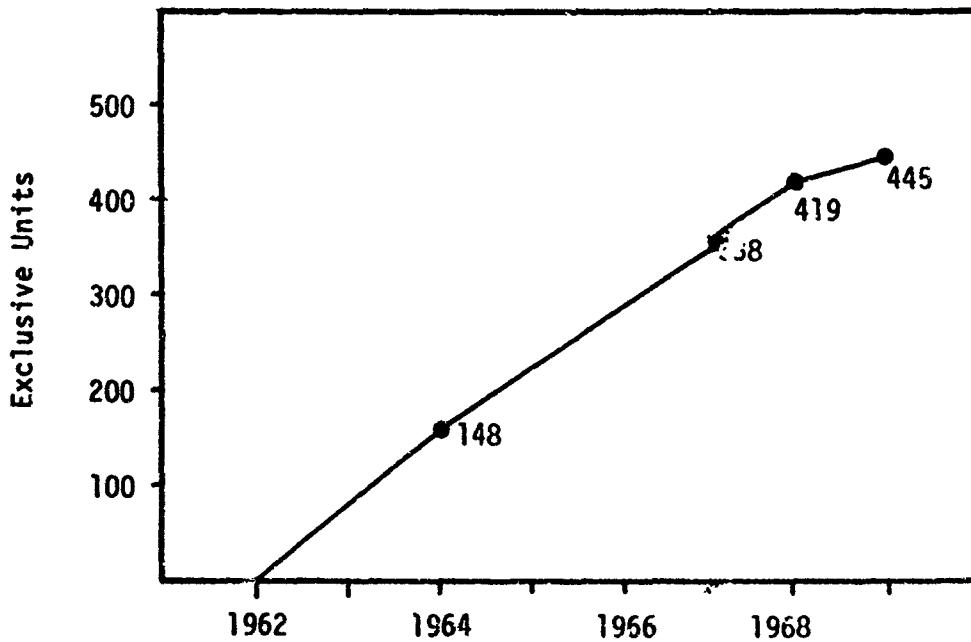


Figure 2. Growth of Exclusive Units in the United States Navy
(Compiled from references in bibliography marked with an asterisk)

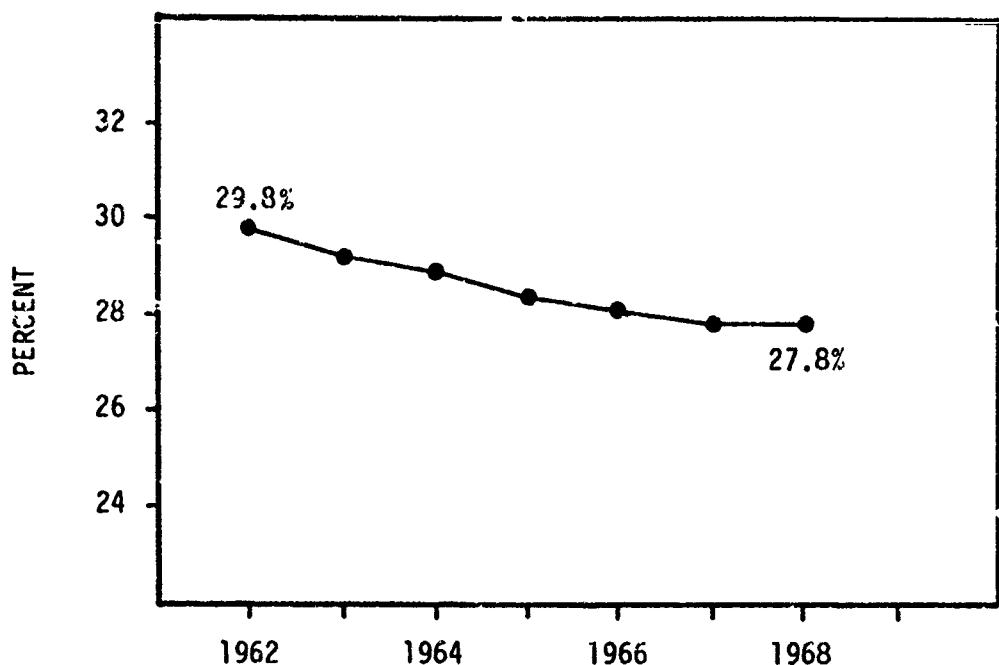


Figure 3. Percentage of Employees Belonging to Unions in Non-Agricultural Establishments (Government Employee Relations Report No. 322, November 10, 1969, p. D-13 and Orme W. Phelps, Introduction to Labor Economics, 1967, p. 202)

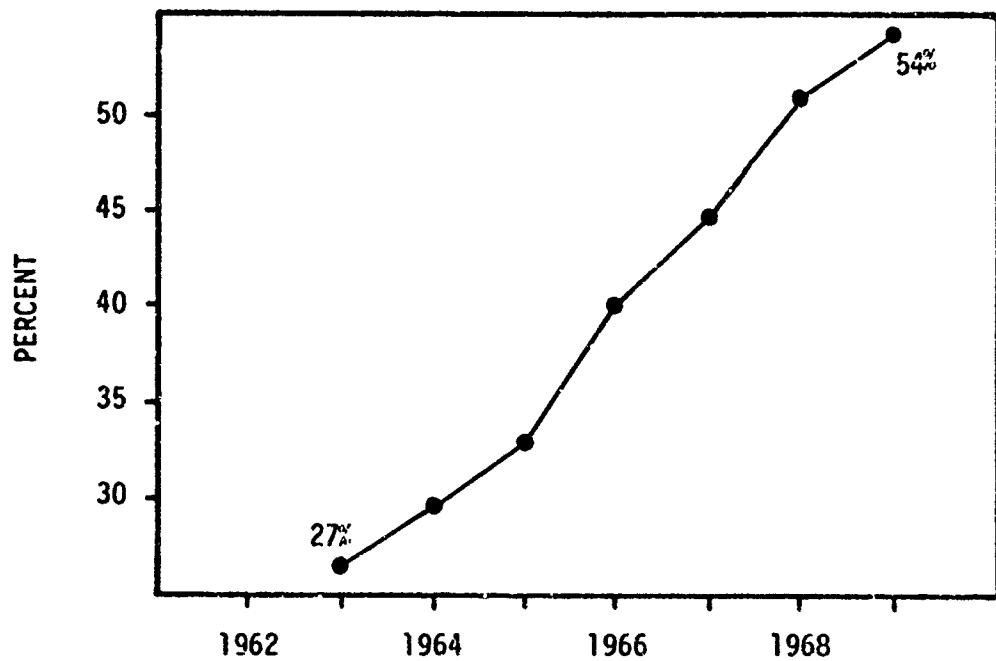


Figure 4. Percentage of Government Employees Represented by Exclusive Recognition (Federal Times, May 6, 1970)

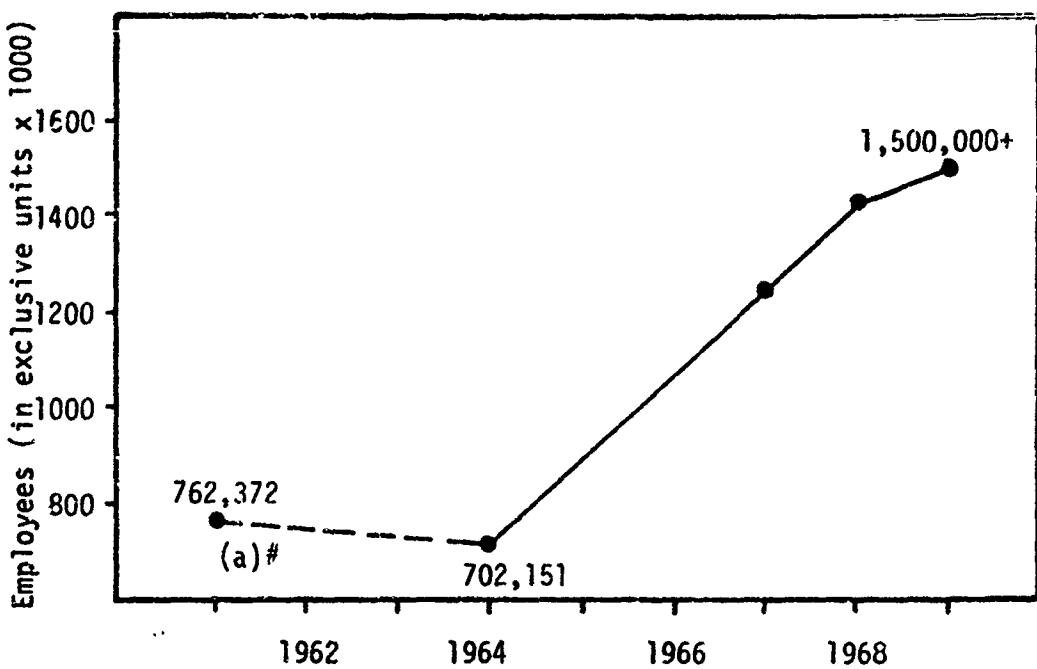


Figure 5. Number of Government Employees Represented by Exclusive Recognition (Compiled from references in bibliography marked with an asterisk)

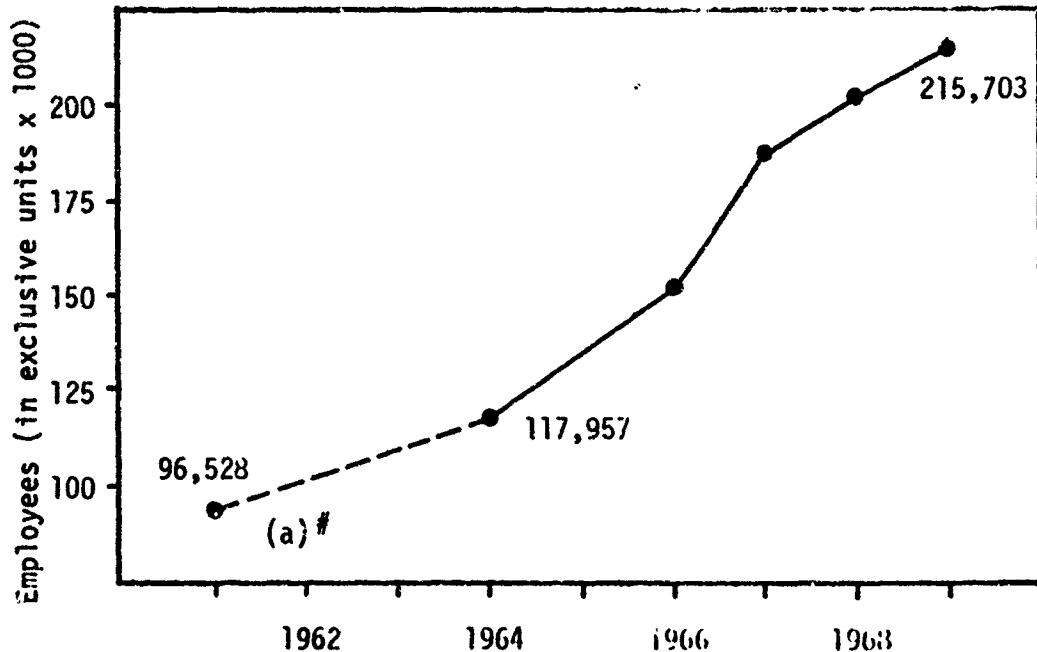


Figure 6. Number of Navy Employees Represented by Exclusive Recognition (Compiled from references in bibliography marked with an asterisk)

(a) represents union members; not all employees in exclusive units.

Navy union participation is shown by Naval Systems Command in Table 3. Table 4 shows the Point Mugu civilian organized groups recognized under Executive Order 10988.

Table 3
Navy Employee Union Participation¹³

Systems Command	No. of Employees	No. of Employees In Exclusive Units	Percent Representation	May 1968
Naval Ships	107,029	78,412	72	
Naval Air	64,417	25,390	40	
Naval Ordnance	40,902	15,334	38	
Naval Supply	30,693	17,215	57	
Naval Facilities Engineering	18,124	8,331	44	

¹³Source of data: Seminar on Labor-Management Relations conducted by Industrial Relations Office, Long Beach Naval Shipyard, Long Beach, Calif., 8-11 September 1969.

Table 4

**Point Mugu Civilian Organized Groups
Recognized Under Executive Order 10988**

Union	Type Recognition
American Federation of Government Employees, Lanseair Local 1224	Formal - Naval Air Station Formal - Navy Astronautics Group Informal - All other commands at Point Mugu
International Association of Machinists, Naval Lodge 256	Informal - All commands at Point Mugu
National Association of Government Employees, Local R12-33	Formal - Naval Air Station Formal - Naval Missile Center Unit of Per Diem Employees Informal - All other commands at Point Mugu
National Federation of Federal Employees, Local 1374 (San Nicolas Island)	Exclusive- Naval Air Station Unit Exclusive- Pacific Missile Range Directorate Unit

Period IV. Executive Order 11491, 1969 to

Executive Order 10988 set the rules for the first government-wide dealings between employee organizations and agency management. However, growth of employee organizations to over 200 unions representing more than 1 million and one-half employees under exclusive recognition made changes necessary to Executive Order 10988. In September 1967, President Johnson directed that a full-scale review be conducted to update the order. In public hearings held in October 1967, over 100 agencies, union, and public spokesmen testified to the need for change. There was general agreement on many of the things that should be changed and on the direction of the changes. The drive for change was unsuccessful during President Johnson's administration because the committee, chaired by

Secretary of Labor Willard Wurtz, failed to agree on several key issues. Shortly after President Nixon took office, top officials picked up the unfinished work of the former review committee and President Nixon appointed a Presidential Review Committee on Employee-Management Relations in the Federal Service. The committee was made up as follows:

The Honorable Melvin R. Laird
Secretary of Defense

The Honorable George P. Shultz
Secretary of Labor

The Honorable Winton M. Blount
Postmaster General

The Honorable Robert P. Mayo
Director, Bureau of the Budget

The Honorable Robert E. Hampton
Chairman, U. S. Civil Service Commission

Alternates to the members:

The Honorable Roger T. Kelley
Assistant Secretary of Defense

The Honorable Willie J. Usery, Jr.
Assistant Secretary of Labor

The Honorable Kenneth A. Housman
Assistant Postmaster General

The Honorable Roger W. Jones
Assistant Director, Bureau of the Budget

Mr. Wilfred V. Gill
Assistant to the Chairman, U. S. Civil Service Commission

On September 10, 1969, the committee submitted their report to President Nixon. In their forwarding letter, the committee said in part:

We find that the program established by Executive Order 10988 in 1962 has produced some excellent results, beneficial to employees and management alike But the great growth of union representation in the past seven years has produced conditions far different from those to which the 1962 order was addressed. . . . Today, there are significant and growing difficulties in operating the program under the 1962 policies, and there is rather general

dissatisfaction among union officials and agency managers because of the failure to adjust program arrangements to present-day conditions.¹⁴

The committee's product emerged on October 29, 1969 when President Nixon issued Executive Order 11491. The committee's full report and recommendations to the President were made public at the same time. Executive Order 11491 is provided as appendix B. Comparisons of Executive Order 10988 with Executive Order 11491 are provided as appendix C. Executive Order 11491 made changes in six main areas of the "old" Executive Order 10988:

1. Central Authority, called the Federal Labor Relations Council (FLRC) will administer the programs and be the final arbitrator of policy questions and disputes. The Chairman of the Civil Service Commission will chair the FLRC with the Secretary of Labor, an official from the President's Executive Office, plus other Executive Branch officials as the President may appoint, as members. A second body called the Federal Impasse Panel, will have authority to settle impasses in contract negotiations if mediation and other voluntary efforts fail. Conversely, it may elect not to solve the impasse, but to recommend other procedures for settling the matter. The panel will consist of at least three members appointed by the President.

2. Union Recognition Arrangements discontinues informal and formal recognition leaving only exclusive recognition, which will require a majority vote in an election conducted under the supervision of the Assistant Secretary of Labor.

¹⁴Report and Recommendations on Labor-Management Relations in the Federal Service, (Washington: Government Printing Office, August 1969), p. i.

3. Status of Supervisors in the labor-management relationship is clarified. An official definition of a supervisor, similar to the definition in the Taft-Hartley Act, is given and it provides that supervisors are considered a part of management. The National Labor Relations Act defines a "supervisor" as:

Any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing. The exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.¹⁵

Agencies are directed to set up special arrangements, separate from the Labor-Relations Program, for consultation and communications with supervisors and associations of supervisors.

4. Negotiation and Administration of Agreements consists of many new measures aimed at improving the process of negotiating and administering agreements. Some of these measures are: (a) the concept of "good-faith bargaining" is made explicit, (b) the framework of law and policy within which negotiations must take place are expressly stated, (c) agencies are encouraged to expand the negotiation potential by delegating to lower levels, such as activities, (d) headquarters approval is still required but will be limited solely to assuring compliance with law and agency regulations, (e) employees serving as union representatives will be on union time (off the clock) while engaged in negotiations with management, (f) the Federal Mediation and Conciliation Service is assigned an official role in the program, (g) if mediation is unsuccessful in resolving dead-

¹⁵1969 Guidebook to Labor Relations, (9th ed.; Chicago, Ill., Commerce Clearing House, Inc., 1969), p. 42.

locks in negotiations, either party may invoke the services of the Federal Impasse Panel.

5. Grievance Procedures and Arbitration changes are threefold: (a) If the parties agree, the negotiated grievance procedure may be made the exclusive procedure available to any employee in the unit. (b) Advisory arbitration is eliminated. If arbitration is agreed to as the final step in a negotiated grievance procedure, the arbitrator's award will be binding on both parties. (c) Parties are expressly authorized to agree to arbitration as a final step in the settlement of disputes over the interpretation or application of provisions in the negotiated agreement.

6. Union Reporting and Disclosure Required. Federal unions are required to make financial reports, bond its officials, conduct democratic internal elections, and establish rules for placing locals in trusteeship. These are areas covered by the LaDrum-Griffin Act for unions in the private sector.

In summary, under Executive Order 11491 there is a third-party process for the final decision to clear up and settle all types of deadlocks that arise in the labor management relationship. The lack of third-party process and decision making in the past meant that neither party was really accountable for its actions.

In my opinion, the real impact of Executive Order 11491 is going to be the development of responsibility in the labor-management relationship--responsibility on both sides, because both sides are going to be held publicly accountable for their actions.¹⁶

This thought is a reflection of the change of titles from "Employee-Management Cooperation" (Executive Order 10988) to "Labor-Management

¹⁶Address by Mr. W. V. Gill, loc. cit.

Relations" (Executive Order 11491). The new document, Executive Order 11491, will "substantially strengthen the Federal Labor Relations system by bringing it more into line with practices in the private sector of the economy" when it becomes effective the first of next year (1970), the White House says.¹⁷

The President's opinion that Executive Order 11491 will substantially strengthen the Federal labor relations system is not entirely agreed to by many of the Federal employee union officials.

The AFL-CIO President George Meany, speaking January 17, 1970 to the annual banquet sponsored by American Federation of Government Employees (AFGE) on the eighty-seventh anniversary of the signing of the Civil Service Act, called Executive Order 11491 "an important step forward--not enough, of course--but progress."¹⁸

The Executive Director of the National Society of Professional Engineers, Paul H. Robbins, urged President Nixon to amend Executive Order 11491 because he says that the order, as written, "May force Federal engineers to engage in collective bargaining whether they want to or not." He asked the President to return formal and informal recognition for at least a year. He also expressed concern over the change of title from "Employee-Management Cooperation" to "Labor-Management Relations" and over the relabeling from "Employee Organizations" to "Labor Organizations." He argued that the semantic changes and the abolition of formal and

¹⁷Government Employee Relations Report No. 320 of October 27, 1969, (Washington: The Bureau of National Affairs, Inc., 1969), Special Supplement, p. 1.

¹⁸Government Employee Relations Report No. 332, (Washington: The Bureau of National Affairs, Inc., January 19, 1970), p. A-4.

informal recognition "are likely to discourage participation of engineers and other professionals," leaving them completely without voice in the formulation of working conditions affecting them.¹⁹

At the Federal Bar Association Workshop and Seminar on Executive Order 11491 held during the week of January 19, 1970, the President of the National Association of Letter Carriers, Mr. James H. Rademacher, listed several shortcomings of Executive Order 11491. First, all three members of the Federal Labor Relations Council are management officials, and the members of the Impasse Panel are likely to be management officials as well. The right to strike is denied and since arbitrators' decisions may be appealed to the council, binding arbitration is lacking. Finally, the burden of bonding and financial disclosure requirements was imposed without corresponding benefit, such as the right to negotiate union shop provisions in contracts.²⁰ At the same seminar, AFGE President Griner protested provisions in the Order prohibiting units of supervisors from organizing, and prohibiting unions which represent other employees from representing guards as well. As for guards, he said the exclusion was unnecessary so long as federal employees were forbidden by law to strike. He further criticized the requirement that a bargaining unit must win an election to be granted exclusive recognition. Griner pointed out that the Taft-Hartley Act permits recognition on the basis of membership or authorization cards in the private sector.²¹

¹⁹ Government Employee Relations Report No. 340, (Washington: The Bureau of National Affairs, Inc., March 16, 1970), p. A-3.

²⁰ Government Employee Relations Report No. 333, (Washington: The Bureau of National Affairs, Inc., Jan. 26, 1970), p. A-10.

²¹ Ibid., p. A-12.

Chapter 3

POST OFFICE STRIKE

The trend for labor relations in the public sector is moving toward labor relations in the private sector of the economy. This is true not only in the Federal Government but also in State and local governments. Teacher strikes are becoming almost a daily occurrence. A Federal Court in Washington, D. C. has ruled that Government employee unions have the right to advocate strikes against the Government. Immediately the union involved in the case (The National Association of Letter Carriers) announced that on the basis of this decision, it would take legal action to challenge the strike ban itself.¹ Recent developments such as the postal strike and the air traffic controllers "sick-out" are examples of the trend.

Due to the potential effect of the postal strike on all public sector employee-management relations, it is considered appropriate to discuss it in some detail.

¹The Ventura County (Calif.) Star Free Press, Federal Spotlight by Joe Young, November 17, 1969, A-12.

Cause of the Strike

In 1955 the American Bar Association Committee on Labor Relations issued a report in which it stated:

A Government which imposes upon other employers certain obligations in dealing with their employees may not in good faith refuse to deal with its own public servants on a reasonably similar basis, modified, of course, to meet the exigencies of the Public Service. It should set the example for industry by being perhaps more considerate than the law requires of private enterprise.²

President Kennedy started the trend toward the above recommendation by issuing Executive Order 10988 and President Nixon pushed Federal labor relations further in that direction by issuing Executive Order 11491.

What brought the postal workers out on strike March 18, 1970? The Postal Union leaders blame the Nixon Administration's decision to ask Federal employees to forego a pay raise in 1970 for precipitating the walkout. The Administration points the finger at Congress for refusing to enact its postal corporation proposal. Congress in turn blames the Administration for refusing to support a pay raise unless the postal corporation proposal was enacted, and union leaders for failing to agree on which postal reform package all could support. Meanwhile across the nation, the rank and file were indicating, with their feet and with picket signs, that they had become disgusted with their leadership, the President and Congress.

These are undoubtedly all contributing factors triggering the walkout, but the roots of the strike are much deeper. The postal workers, who make up about 750,000 of the nearly 2.8 million civilian employees

²A Policy for Employee-Management Cooperation in the Federal Service. Report of the President's Task Force on Employee-Management Relations in the Federal Service. (Washington: Government Printing Office, November 30, 1961), p. 5.

of the Federal Government are 85 to 90 percent unionized.³ The Congress is the independent paymaster, and getting a pay raise or changing work conditions is a complex and uncertain process with politics compounding the problem.

Wages. Postal salaries start at \$6,176 and creep up to \$8,440 over a twenty-one year career. This places postal employees in the lowest standard-of-living category (Table 5). An urban family of four required an annual income of \$10,077 to maintain an intermediate standard of living⁴ in the spring of 1969, according to preliminary figures released in January 1970 by the Bureau of Labor Statistics, an increase of 11 percent over 1967. Income required for the lower budget also rose 11 percent to \$6,567, while costs for the higher standard of living rose 12 percent to \$14,589.⁵ Selected cities for these three standards of living are provided as Table 5.

In 1967 the then Postmaster General Lawrence F. O'Brien saw the Post Office Department in "a race with catastrophe" and the present Postmaster General, Winton M. Blount, calls it a "high-cost labor-intensive anachronism." Anachronisms abound. Nearly one-third of the workers are substitute or temporary substitute employees. In small towns

³Business Week, "Federal Employees March to a New Drummer," March 28, 1970, p. 40.

⁴The Bureau of Labor Statistics first published estimates of income needed by a worker living in a metropolitan area to maintain a moderate standard of living in 1951. The 1967 report enlarged previous ones to include three budgets: lower, intermediate, and higher.

⁵1970 Briefing Sessions Workbook, (Washington: The Bureau of National Affairs, Inc., 1970), p. 45.

Table 5

Annual Costs of the Urban Family Budget⁶
Family of Four, Spring 1969

Area	Lower Budget	Intermediate Budget	Higher Budget
Urban United States	\$6,567	\$10,077	\$14,589
Metropolitan Areas	6,673	10,273	14,959
Nonmetropolitan Areas	6,092	9,204	12,942
New York--Northeastern N. J.	6,771	11,236	16,914
Philadelphia, Pa.--N. J.	6,628	10,160	14,782
Washington, D. C.--Md.--Va.	6,907	10,503	15,350
Los Angeles--Long Beach, Calif.	6,792	10,127	14,862

employees may remain in that status for life. In large cities it is possible to move up to permanent clerk status in six months, but two years is more common. Letter carriers often take longer. You go nowhere without political pull. Political leaders picked and promoted supervisors until the present administration. Two-thirds of all postmasters got their jobs without prior experience. Mobility between post offices for capable supervisors was, and is, almost unheard of. The lowest supervisory job pays about \$600 a year more than a nonsupervisory job. Jobs higher up are scarce: for 1,200 first-level supervisors there are only 100 at the next higher level.⁷

⁶Ibid., pp. 45-46, used for source of data.

⁷Business Week, "Untangling the Mess in the Post Office," March 28, 1970, p. 78.

Working Conditions

Many post office buildings were built during or before the depression. Air conditioning is now being installed in some of the buildings. In some post offices where the work force is about 50-percent women employees, there are unisexual toilets. Special hours are assigned to each sex. "The Washington, D. C. post office has no doors on the ladies' toilets and there isn't a cafeteria or any place to sit and eat a meal in many offices. Parking lots are rare, yet we expect people to work in the middle of the night and get home safely," says Assistant Postmaster General Housman.⁸ Housman spent twenty-three years with Union Carbide in personnel and labor relations before joining the Post Office Department. Housman is quoted as saying:

For years, the Government has been telling the private sector how to treat its personnel, how to run a safety program, how to do everything better. When I came down here, I thought I was coming straight to the Messiah. I found just the opposite. I found an operation that's back in the 19th century. The Post Office doesn't begin to approach the progressive practices industry found paid off long ago.⁹

In most post offices the "pigeon hole" technique invented by Benjamin Franklin for hand sorting is still in use. Technology is advancing with "letter sorting machines," "optical character readers" presently in use in some offices, and research on new systems is being conducted. Figure 7 shows the steady increase in mail, Figure 8 shows postal worker's output per man-hour.

⁸Ibid., p. 83.

⁹Ibid., p. 83.

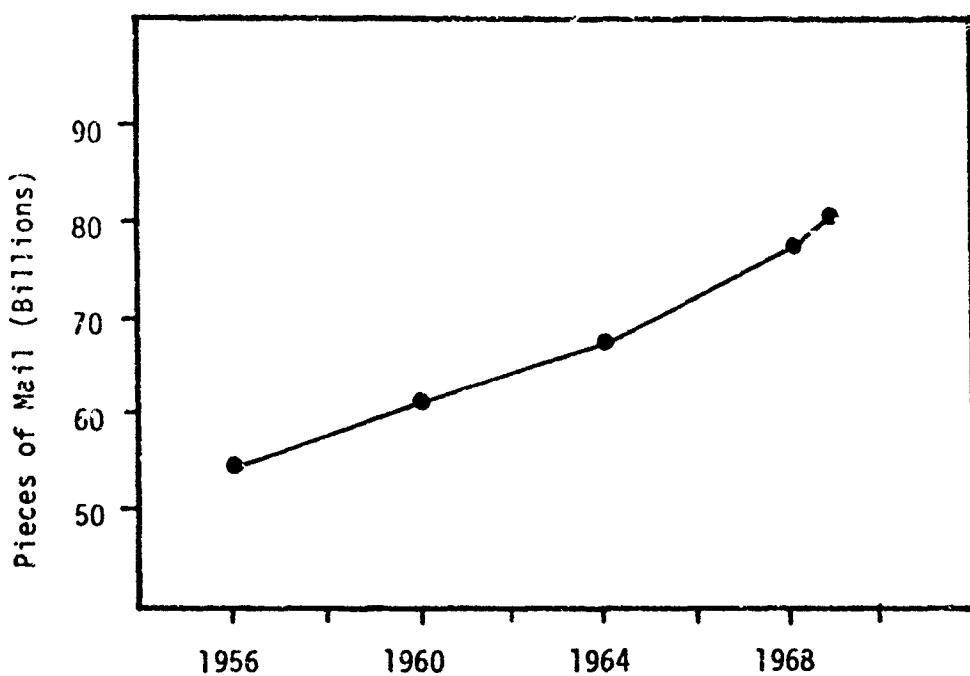


Figure 7. Rise in the Flow of Mail (*Business Week*, "Untangling the Mess in the Post Office", March 28, 1970, p. 78)

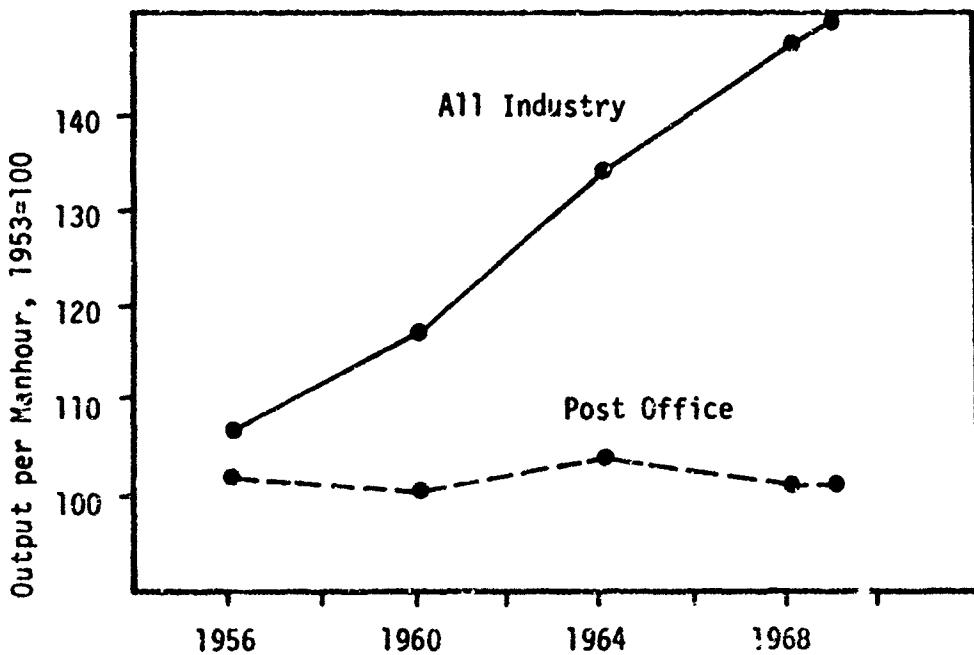


Figure 8. Comparison of Postal Workers Output With Private Industry (*Business Week*, "Untangling the Mess in the Post Office", March 28, 1970, p. 78)

Monotony and primitive working conditions are not the only bars to high quality production. The fact remains that more than 60 percent of the employees who retire from the post office leave at the same job level they entered. Only 5 percent of all employees become supervisors. Although automation holds high promise for handling the mail more efficiently and quickly, management methods remain with the spoils system. Postal reform is long overdue.

Employee militancy in the postal service has been increasing year by year, and the rank and file members of major unions have been acting like members of big industrial unions in private industry. They have been pressing national leaders to be more aggressive, demanding changes in working conditions, and particularly, demanding equity with union employees in private industry. Political in-fighting over the postal bill which was before Congress prior to the strike has brought this aggressiveness to the forefront.

The Strike

The largest strike in the history of the Federal Government, and the first major one in modern times, began early in the morning on March 18, 1970. The strike began a few short hours after members of National Association of Letter Carriers, Branch 36 (covering New York City, Boroughs of Manhattan, and the Bronx) voted 1,559 to 1,055 to strike. On the morning of the 18th, the carriers quickly set up picket lines in front of Post Offices. The pickets were honored by other postal craft workers and the strike was on. The other postal crafts and their unions were: Clerks, United Federation of Postal Clerks; Mail Handlers, National Association of Mail Handlers; Rural Carriers, Rural Letter

Carriers Association; Special Delivery Messengers, National Association of Special Delivery Messengers; Maintenance Workers, National Association of Post Office. Others involved were the General Services Maintenance Employees, and Motor Vehicle Employees. All are AFL-CIO affiliates except for the Rural Letter Carriers Association. In addition, an industrial type independent, the National Postal Union, also honored the picket lines.

By noon on March 18, Assistant Postmaster General William Ruckelshaus flew to New York to obtain an injunction against the strike. Although striking against the Government is a criminal offense, a civil injunction was obtained. The local leaders of the National Association of Letter Carriers complied by ordering their members back to work. Their orders were unheeded by the striking employees. Late that afternoon, Postmaster General Winton M. Blount announced an embargo on mail into the metropolitan area of New York. Speaking carefully, Postmaster General Blount said:

We simply cannot tolerate a mail stoppage in this country. There are no recriminations needed at this time. Our primary concern is to immediately restore mail service.¹⁰

On March 19th, the strike hit a turning point when letter carriers in Philadelphia walked out. From Philadelphia "strike fever" moved westward to Buffalo, Cleveland, Detroit, Chicago, Milwaukee, St. Paul and other highly unionized centers across the midwest. The demands of the New York letter carriers spread across the nation.

¹⁰Government Employee Relations Report No. 341, (Washington: The Bureau of National Affairs, Inc., March 23, 1970), p. A-7.

On March 20th, the seven postal craft unions met with Secretary of Labor George P. Shultz. Following the meeting, Shultz announced that as soon as the work stoppage was ended, the administration and the Post Office Department were ready to enter into discussions with the unions on the full range of issues. The union presidents were not very successful in getting the members to return to work.

On Saturday March 21st, President Nixon declared that the Government soon would do more than just implore the strikers to return if a back-to-work movement did not start soon. "On Monday I will meet my constitutional obligation to see to it that the mails will go through," the President said.

A small back-to-work movement in the smaller cities began through Saturday and Sunday, but employees in the larger cities remained adamant. On Monday afternoon, President Nixon announced the call-up of troops. He stated that "what is at issue here is the survival of a Government based on law." He limited the use of troops to New York City but said he would use them elsewhere if needed. He also stated that the Attorney General John Mitchell would act to seek injunctions barring illegal picketing which would prevent employees who wished to return to work from doing so.

Almost all postal workers outside New York returned to work early the next week, and the New York wildcat walkout ended on Wednesday, March 25th under a threat of large fines and with a promise of pay negotiations.

Bargaining started with AFL-CIO President George Meany deeply involved through a top aide. Congress acted to be available on 24-hour notice during its Easter recess, and legislative leaders agreed that

any postal raise would be retroactive to January 1, 1970 and be extended to other Federal employees. Union negotiators set Monday, March 30th as a deadline for a satisfactory agreement. The Post Office said punishment for strike leaders is something "obviously we are going to have to face up to."¹¹

The Government and union negotiators agreed on a two-stage 14-percent pay increase for postal workers, tied in part to a major overhaul of the mail service, on April 3rd, 1970.

The Negotiated Agreement

The Post Office Department and the seven national exclusive unions reached agreement April 3rd on a joint proposal for a retroactive wage increase for all Federal employees and for another wage increase for postal field service workers contingent on enactment of postal reform. Five areas of agreement were reached.

1. General wage increase of 6-percent retroactive to December 27th, 1969 for all postal employees.
2. Other post office provisions: The parties will agree upon and jointly sponsor a reorganization of the Department which amongst other things will:
 - a. Enable collective bargaining over wages, hours, working conditions and, in general, all matters that are subject to collective bargaining in the private sector, with binding arbitration.
 - b. Provide an additional 8-percent wage increase for postal workers when Department reform legislation becomes law.

¹¹Business Week, "Federal Employees March to a New Drummer," March 28, 1970, p. 41.

c. Provide that negotiations with unions be started immediately to establish eight years in-grade to reach maximum pay level in that grade. Also, all employees will be raised to that step in grade, justified by past service, when the new schedule becomes effective.

d. Provide a structure for the Department so that it can operate on a self-contained basis and endow it with authority commensurate with its responsibilities to improve, manage, and maintain efficient and adequate postal service.

Drafting of Agreement

It is understood that the parties will commence work at once to prepare the agreed legislation with a view to having it ready for submission not later than April 10th, 1970.

Disciplinary Action

No disciplinary action will be initiated by the Post Office Department at any level against any postal employee with respect to the events of March 1970, until discussions have taken place between the Department and appropriate employee unions on the policy to be followed by the Department.¹²

President Nixon urged Congress, on April 4th, to enact the package and to finance the pay increases by raising the price of a first-class stamp from 6 to 10 cents.

¹²Data on agreement obtained from text of the "Memorandum of Agreement" between Post Office Department and the unions published in Government Employee Relations Report No. 343, (Washington: The Bureau of National Affairs, Inc., April 6, 1970), pp. A-5, A-6.

Controversy Over Agreement

There has been controversy over the agreement and the way in which it was reached. The President of the National Postal Union, David Silverglied, who did not participate in the negotiations because his union does not hold national exclusive recognition, charged that:

There has been a raw deal in the attempt of the Executive Branch to usurp the prerogatives of Congress and to write the terms of so-called postal reform. This has all the aspects of a sweetheart agreement at the expense of the postal workers and the American mail-using public. It represents almost total capitulation to the demands of the Nixon Administration.¹³

Silverglied was also unhappy that the Rural Letter Carriers Association participated in the negotiations but not in the strike.

National Alliance President, Ashby G. Smith, charged that the 6-percent increase was inadequate and too late and that the 8-percent increase is too uncertain and that the price may be too high. He fears that workers may have to give up civil service status with the postal reform. Smith and other National Alliance leaders picketed the hotel where the negotiations took place. The National Alliance charged that the Nixon Administration violated its own announced fair employment policies by excluding their union, with the largest membership of black workers, from the bargaining sessions.

The National Association of Postal Supervisors is concerned that the 8-percent raise for postal workers only may not include all twenty-one levels in the postal field service. The postal reform package approved by the House Post Office and Civil Service Committee, just before the strike, provided for retroactive pay raises only for workers in the first six levels.

¹³ Ibid., No. 343, p. A-7.

The President of the National Federation of Federal Employees, Nathan T. Wolkomir, has said the 6-percent across-the-board increase is inadequate and inequitable. He also charged that it was unfairly arrived at because there were no consultations or communications with nonpostal unions.

Kenneth T. Lyons, President of the National Association of Government Employees (NAGE), urged President Nixon to end politics in the Government pay-setting process by establishing a Tri-Partite Federal Wage and Salary Authority, and Salary Authority divorced from the legislative process.¹⁴

The Nixon administration had to face the fact that it had announced proposed delays of pay raises due in July 1970 for all Federal general schedule (civil service) employees, military, and postal workers. Chairman of the House Civil Service Pay Subcommittee, Morris K. Udall (Democrat, Arizona), had warned that, "Congress could touch off strikes by other Federal employees if it gives hikes to postal people but ignores other Government employees and military personnel."¹⁵

Agreement Becomes Law

In the opening remarks of a message to Congress on April 3, 1970, President Nixon said:

Yesterday, the Government negotiated a settlement with its postal employees. This settlement could not properly be made in isolation from the needs of all Federal employees. In dealing with the special needs of the postal workers, the Government representatives took into account the context of the Federal Government's relations with its entire work force. It should be noted that

¹⁴ The Fednews, March 31, 1970, p. 1.

¹⁵ Armed Forces Journal, April 4, 1970, Washington, p. 6.

this negotiation took place only after postal work stoppages had ceased. One who works as a Government employee agrees not to strike. But, concomitantly, the Government has an obligation to insure each of its employees fair treatment so long as each lives up to his or her obligations. The Government is committed by law to a pay policy of comparability; that is, pay levels should correspond to those in business and industry. The agreed-upon government-wide pay increase complies with this standard.¹⁶

He went on to propose that Congress enact into law the negotiated agreement with proposed means of raising revenue for a pay-as-you-go policy as an insurance against inflation. In closing President Nixon stated:

I cannot stress too strongly my support of early adoption of all of these inter-dependent and necessary actions. Each will relate to and depend upon the others. I request the Congress to act upon all, at once, to afford deserving employees an equitable pay adjustment, to provide badly needed reorganization of our postal system, and to adopt the proposed pay-as-you-go revenue program to support these needed changes.¹⁷

The agreement was signed and enacted into law, after Congressional action, by the President on April 15, 1970. The effects of the law are shown in Table 6.

Analysis of Results of the Postal Strike

Postal negotiations had scarcely started when air controllers began calling in sick at airports all over the country. The air controllers had been trying to negotiate for better pay and a larger work force for several years. Calling in sick was the only way air controllers knew to get attention for their problem. As a result of the handling of the postal strike this may no longer be true.

¹⁶Government Employee Relations Report No. 343, (Washington: The Bureau of National Affairs, Inc., April 6, 1970), p. 1-1, Text of President Nixon's Message to Congress on the settlement with postal employees.

¹⁷Ibid.

Table 6
Fact Sheet on Pay Increases¹⁸

Total people affected	
Military	\$3.2 million
Civilian	2.1 million
Civilian Cost FY 71	
General Schedule (civil service)	.8 billion
Postal	.4 billion
Other	<u>.1 billion</u>
Total	\$1.3 billion
Military Cost FY 71	<u>\$1.2 billion</u>
Total	\$2.5 billion
Previously Budgeted FY 71	<u>1.2 billion</u>
FY 71 Deficit	\$1.3 billion

When the postal strike crippled the postal communications it seemed apparent that President Nixon's political future might hinge on the way he handled it. If he overreacted, it would be interpreted as reflecting intemperateness. He was spared a real decision by the postal workers returning to their jobs. He had not met the issue head-on when he called in the troops to handle the mail in New York City. The lesson was well learned by the air controllers. They feel that because of their strategic role the Government can do nothing, and if the postal workers got away with it, why not the air controllers?

¹⁸Ibid., p. 1-2, A White House "Fact Sheet" on the proposed pay increase.

A precedent has been established, and one that undercuts the principle and the law that government workers cannot strike. This precedent poses a new threat to the stability of the Nixon administration and Government based on law. It is predicted that if the air controllers are handled in a different manner from the postal workers the Government is in for a series of strikes, ranging in effect from nuisance to devastating, which will keep Washington and the rest of the country in an uproar. Had the President obtained an injunction against the postal unions and its officers, collectively and individually, with \$1 million a day fines for every day of duration, the postal strike would have been over quickly. Simultaneously, the postal workers on strike should have been publicly informed of the penalties now written into the law governing civil service employees; namely, that those who strike are subject to \$1,000 fines, imprisonment, and lose their seniority and all their accrued fringe benefits, pensions, and so forth.¹⁹ Another penalty, barring the re-employment of striking government employees for three years should have been banished. But this did not happen and now the administration finds itself holding a tiger by the tail, and what the consequences may be are horrendous to consider.

The Nixon administration's agreement to bargain with postal unions on wages has opened a door through which all other Federal employee unions

¹⁹1969 Guidebook, p. 272. Strikes by Federal Government employees are prohibited by federal statute. (Section 690, Statute 6245 USC enacted August 9, 1955, and repealing Section 305 of the LMRA.) Penalty for violation of the strike ban constitutes a felony, punishable by a fine up to \$1,000 and imprisonment for not more than one year and a day, or both.

may try to rush. The effects of this break-through in labor-management relations for Federal employees may filter down to state and local government employees. In a recent United Press International news release, "Big Step in Collective Bargaining Postal Pact Opens New Doors,"²⁰ the following quotes were made.

AFL-CIO President, George Meany:

The most significant thing about this is the agreement of the Post Office Department, representing the President of the United States, that collective bargaining procedures should be established to cover every single phase of collective bargaining which now prevails in the private sector. This is a tremendously significant forward step in the history of labor relations in this country. I think this will not be lost on the people whose job it is to deal with public employees at the state, county, and city level.

American Federation of Government Employees (AFGE) President, John Griner:

AFGE is seriously considering the question of whether we should ask for the same collective bargaining privileges as won by postal workers.

AFL-CIO News editorial:

The postal agreement when enacted into law will set up a true and complete system of collective bargaining that is likely to have a widespread effect on other Government agencies. The Post's Agreement paves the way for millions of Federal workers not only to join a union, but to bargain collectively with their employer on all issues. And what's good enough for Uncle Sam ought to be good enough for every state, county, and city.

National Association of Government Employees (NAGE) Executive Vice-President, Alan Whitney:

This will have a profound effect on the attitudes of the remainder of the Federal work force. Naturally, what the postal unions won in terms of bonafide collective bargaining is the same thing we want for our members as well.

²⁰Press-Courier, Oxnard, California, April 13, 1970, p. 8.

The National Right to Work Committee:

This opens the door to negotiations of union shop contracts that would require postal workers to join unions in order to keep their jobs.

International Association of Fire Fighters President,

William Howard McClellan:

We hope this will get down to the state and city level. There are 26 states now having some form of collective bargaining law for public employees, with most of them permitting negotiation on wages. But there are no provisions for binding arbitration of disputes, leaving the unions with no real power since they are forbidden by law to strike.

All Federal employees and the military were included in the 6-percent pay raise as a matter of equity. The raise was probably included to demonstrate that the government will not be coerced by strikes against it. Whatever the merits or shortcomings of the administration in handling the postal pay issue, the back-dating of the military/federal civilian pay increase is considered in many quarters to be poetic justice. This part of the federal pay raise (the 6 percent) was scheduled, by law, to be put into effect no later than July 1, 1970. But President Nixon had proposed, as an economy measure, to postpone the increase until January 1, 1971. The delay proposal did not sit well with most employees, particularly in view of earlier sizable pay increases which had been approved for the President himself and for Congress and which, however well deserved, were symbolically damaging to the Administration's case for belt-tightening by others.

The impact of the handling of the postal strike will not be fully realized for years to come. However, it is obvious that precedents were set that may have the effect of granting Federal employees collective bargaining rights on money issues formerly controlled by Congress.

Further, the failure to assess fines and the negotiation of immunity for striking postal employees that may ultimately occur may have the effect of granting Federal employees the right to strike.

Strangely, this breakthrough in labor-management relations for Federal employees, represented by the postal agreement, came under the administration of a President whom labor has generally regarded as a foe.

Chapter 4

COMPARISON OF PUBLIC AND PRIVATE SECTOR IN COLLECTIVE BARGAINING

Before issuance of Executive Order 10988 in 1962, there were no laws granting collective bargaining rights to Government employee. All Federal, State and local laws regarding collective bargaining were designed for private industry (the private sector). A universal prohibition existed against public employees (the public sector) bargaining collectively and causing work stoppages.

Executive Order 10988 brought limited collective bargaining to the Federal Government employees. Federal employee unions could not bargain on wages and other money items, but only on limited issues such as working conditions. The right to strike and the right to advocate strikes was specifically ruled against. Federal employees had to lobby in Congress for wages and other money item benefits.

Though the situation has never been carefully studied, political power of certain of the Federal employee unions is undoubtedly considerable. From 1910 to 1960, for example, there were 31 successful discharge petitions designed to pry legislation loose from the Committee on Rules in the House of Representatives. Six of these petitions, all between 1949 and 1960, had the active backing of the

National Association of Letter Carriers. Five of six led to pay raises for government employees.¹

Soon after Executive Order 10988, many states enacted a variety of state laws permitting collective bargaining among state and local government employees. None of these laws permit strikes. At this time, more than eight years after the signing of Executive Order 10988 by President Kennedy, collective bargaining rights vary from city to city and state to state. In some cases employees have full rights to bargain for wages and all other benefits, but in other cases they can not bargain at all. In all jurisdictions they are forbidden to strike; however, reports of strikes against the school systems fill the news-papers.

President Nixon expanded collective bargaining in the public sector with the issuance of Executive Order 11491. A third-party process was established for finality of decisions, clearing up uncertainty, resolving disputes, and settling deadlocks. The position of supervisors in the labor-management relationship was clarified by defining a supervisor much like that in the Taft-Hartley Act, and stating that they are management. Unions were required to make financial reports and disclosure. Advisory arbitration was eliminated, but binding arbitration was made negotiable.

There still remain some major differences between public and private sector collective bargaining, discussed in the following paragraphs. Collective bargaining is defined in the National Labor Relation

¹Franklin P. Kilpatrick, Milton C. Cummings, Jr., and M. Kent Jennings, The Image of the Federal Service, (Washington: The Brookings Institute, 1964), p. 43.

(Taft-Hartley) act:

To bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.²

For a more academic definition Dale Yoder provides the following:

Collective bargaining describes the process in which conditions of employment are determined by agreement between representatives of an organized group of employees, on the one hand, and one or more employers, on the other. It is called 'collective' because employers form an association that they authorize to act as their agent in reaching an agreement and because employers may also act as a group rather than as individuals. It is described as 'bargaining' in part because the method of reaching an agreement involves proposals and counterproposals, offers and counteroffers.³

The process of collective bargaining gets a more down-to-earth appraisal from a Union President:

When the (union) demands are ready, they are presented to management. The first meeting is spent in just reading them. The second meeting is spent with management asking us, "Do you really mean it? In a third meeting, management tells us how poor they are and how crazy we are. Finally, after everybody goes through a lot of motion, we do, generally, arrive at a meaningful contract. This is how contracts are negotiated.⁴

There is much controversy over whether collective bargaining can really exist in the public sector. The notion of sovereignty has long been an argument against collective bargaining in the public sector. This vague and abstract idea has become less important due to Executive Order

²1969 Guidebook to Labor Relations, (Chicago: Commerce Clearing House, Inc., 1969), p. 60.

³Dale Yoder, Personnel Management and Industrial Relations, (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1962), p. 165.

⁴Kenneth O. Warner, Mary L. Hennessy, Public Management at the Bargaining Table, (Chicago: Public Personnel Assn., 1967), p. 10.

10988 and subsequent trends in public sector labor relations. The argument is based on the "Sovereignty Immunity Doctrine" which is as follows:

The Government is sovereign, that is, it is the ultimate legal and political authority. The sovereign cannot be forced to relinquish this authority, or it would cease to be sovereign. Therefore the government cannot bargain with its employees because the procedure would involve releasing sovereign authority.⁵

The sovereignty immunity doctrine has been reiterated many times over the years by the actions of the Executive, Judicial and Legislative Branches of the Federal Government. A sovereign government may chose to voluntarily limit its power to make unilateral decisions and allow collective bargaining. Such has been the case in the signing of Executive Orders 10988 and 11491, and the agreement by President Nixon to negotiate with the postal unions to settle the postal strike. The proposed second step of the negotiated postal agreement, to enact postal reform, leads into another problem area of collective bargaining in the public sector, Separation of Power. Various controls are exercised over the Federal Civil Service by Congress, the President, the Civil Service Commission, Departments, and agencies. Thus reaching agreement on collective bargaining by Civil Service employees is difficult. Although Congress allowed the negotiations to settle the postal strike and quickly signed the pay raise, it is balking at the reform portion of the agreement. Congress would lose many of its powers and controls over the Post Office if the reform is approved.⁶

⁵B. V. H. Schneider, Collective Bargaining and the Federal Civil Service, (Berkeley, California: Institute of Industrial Relations, 1964), p. 108.

⁶For more details on sovereignty and separation of power see: Willem B. Vosloo, Collective Bargaining in the U. S. Federal Civil Service, (Chicago: Public Personnel Asso., 1966), pp. 17-45, 196-199.

Another major controversy over collective bargaining in the public sector centers around the right to strike. Many argue, "For without the 'right to strike' weapon you just do not have collective bargaining. You may have a close imitation. You do not have the reality."⁷

Right to Strike

In the private sector employees may strike.

The withholding of labor is merely the ultimate force at bargaining table, where negotiations for a real and fair agreement are threshed out. It is much more basic. The very acceptance and existence of a labor organization depends upon the giving or the withholding of labor.⁸

This is the ultimate weapon which provides the employee with bargaining power equal to that of management. When employees strike in private industry, the owners lose money through loss of sales. This is the pressure which eventually compels management to reach an agreement with the union or go into bankruptcy and lose its investment. When a private company is closed by strike, generally the public can purchase similar products elsewhere; therefore, the public is not hurt directly.

In the public sector it is illegal for employees to strike,⁹ but the rate of illegal strikes in the public sector is increasing.

⁷Warner & Hennessy, op. cit., p. 14.

⁸Ibid., p. 14.

⁹1969 Guidebook, p. 272. Strikes by Federal Government employees are prohibited by Federal statute. (Section 690, Statute 6245 USC enacted August 9, 1955, and repealing Section 305 of the LMRA.) Penalty for violation of the strike ban constitutes a felony, punishable by a fine up to \$1,000 and imprisonment for not more than one year and a day, or both.

If we assert that collective bargaining should be the policy of the state and municipality in their relations with the persons who work for them, we must agree to grant the right to strike.¹⁰

When the public sector employees do strike, the Government saves money since the employees on strike are not paid. The Government cannot declare bankruptcy and the employees know it. Government services, however, are curtailed and the public is personally inconvenienced. There is less economic pressure on Government management, but considerable public and political pressure on both union and management officials to end the strike. The recent Post Office and Air Traffic Control strikes are evidence of this pressure.

Right to Bargain on Money Items

In the private sector the major issues in collective bargaining center around wages, fringe benefits, and other money items. The method used by private industry to meet the increases in money items negotiated is to raise the prices of its commodities.

In the Federal Government collective bargaining on wages, fringe benefits, and other money items are prohibited by law, although this is permitted in state and local governments. In dealing with money matters, both management and labor know that in the final analysis the final authority is obscured in the distant legislature or among the voters

Terms and Conditions of Employment

In private industry few terms and conditions of employment are set by law. These areas normally constitute many of the items negotiated at the bargaining table.

¹⁰ Warner, op. cit., p. 14.

In the public sector the terms and conditions of employment are set by law and cannot be negotiated.

Comparison of Negotiators

There are many differences that exist between negotiators in the private and public sectors.

Private sector negotiators. Negotiators for private industry are usually well trained and experienced people. Very often they are professional negotiators. They are able to devote ample time to the preparation for, the bargaining of, and follow-up procedures on the contract. Adequate financial and personnel assistance is generally provided. Negotiators in industry are aggressive in representing their clients because their careers are dependent upon successful negotiations. Often the negotiator may have a financial investment in the company he represents which provides increased incentive to perform successfully. Bargaining limits are clearly defined and the opposition recognizes the the company's negotiator has the authority and speaks for management.

Public sector negotiators. Negotiators in the public sector are usually selected for various reasons and from a conglomeration of personnel, inexperienced and unskilled in collective bargaining. The selected negotiator usually has full-time administrative responsibilities, frequently lacks the time and energy to do an adequate extra job, and is seldom given sufficient supporting services. The motives and incentives of the Government negotiator rely almost entirely on the personal attributes and ambitions of the person selected. Often selection is made without regard to the desires of the person concerned. Personal

dedication and satisfaction for a job well done are the motivation and reward. Negotiators may actually profit by granting employees more benefits where money items can be negotiated, for in most instances supervisors and administrators usually receive similar benefits to those granted workers. In Government considerable vagueness and confusion regarding the authority of the negotiator, and the head of the agency governing body, often exists. Administrative machinery (red tape) is usually more complex and bureaucratic, thus making quick decisions practically impossible. Executive Order 11491 has relieved this to some extent in the Federal Government by allowing activities to negotiate contracts with only review, for conformity to law, by higher authority, thus reducing the red tape.

Summary of Chapter

The many differences which exist between collective bargaining in the public and private sector can be summed up as follows:

1. The net results of the differences in negotiators is that public sector negotiators will be less effective than those in the private sector. Because of this weakness, government faces many dangers at the bargaining table, mainly the tendency to negotiate away management prerogatives and give away unnecessary employee benefits.
2. Public and political pressures are the determining factors in preventing and ending strikes in the public sector. In the private sector economics is the overriding concern at the bargaining table.
3. In the public sector politics and public opinion are significant factors. The insertion of these factors into the bargaining process in the public sector will complicate relationships.

4. Each problem facing collective bargaining in the public sector must be dealt with individually. Experience in the private sector will only provide guidance. Collective bargaining in the public sector faces many new situations and unique problems.

Chapter 5

THE GENERATION GAP AND COLLECTIVE BARGAINING

Perhaps the most provocative problem yet to face negotiators will be in dealing with the young who are coming of working age. What effect will the generation gap have on future negotiations? The emergence of a work force that is younger, better educated, and contains more minority groups than in earlier decades, will cause unions and employers both to face problems in meeting the expectations of the new work force. Labor Secretary Shultz has said,

A younger group with a different set of needs is gradually asserting itself. This 'age-tension' may well explain the high rate of rejection by the rank and file of settlements negotiated by an older leadership. The 'Racial Revolution' is another, more subtle force disrupting bargaining relationships.¹

Labor Council Robert H. Levitt, of Western Electric Company, when exploring the race aspects of collective bargaining declared it

regrettable that unions have not shown readiness of willingness to move ahead with equal employment opportunity programs. The result has been the creation of black blocs or caucuses which in turn have raised the specter of a third party at the bargaining table or what some choose to call tripartism in collective bargaining.²

¹1970 Briefing Sessions Workbook, "New Breed at the Bargaining Table", (Washington: The Bureau of National Affairs, Inc., 1970), p. 26.

²Ibid.

the struggle for civil rights and racial equality in
American society at large.

No matter how determined labor is to implement a policy of complete racial equality in unions, they realize that the 'civil rights' of Negroes had finally to be confirmed through legislation on a National level. In an address to the AFL-CIO, the American Negro leader Dr. Martin Luther King, Jr., pointed out the dramatic parallel between the struggle of unions and the Negro for recognition. To King, organized labor and the Negro represent a common cause: the cause of human rights and dignity.³

Mr. Neil Manning of the United Auto Workers Union, Western Region, has stated that

Ten years ago the average age of employees was 50; in 1970 it is expected to be about 25. These new young members are beginning to be heard in our bargaining. We refer to them as the 'Mod Squad'.⁴

Some sociologists claim the generation gap is caused by different cultures that exist between the generations. The new generation feels that The Establishment tries to justify a very imperfect world, one in which poverty exists in the most affluent society in the world. The young claim that The Establishment has failed in three areas: (1) failure to eliminate racism, (2) failure to eliminate poverty, and (3) failure to establish lasting peace. (These could, of course, be the failures of all generations to date and probably those of the future.)

The Hippies' primary criticism of American society also appears to fall into three major areas: (1) the lack of interpersonal relationships, (2) materialism, and (3) hypocrisy.⁵ Most Hippies come from the

³John Herling, Labor Unions in America, (Washington: Robert B. Luce, Inc., 1964), p. 77.

⁴Speech by Mr. Neil Manning, United Auto Workers, Western Region, at 13th Annual Research Conference on Industrial Relations, held in Los Angeles, California on March 17, 1970.

⁵Lewis Yablonsky, The Hippie Trip, (New York: Pegasus, 1969), p. 362.

middle and upper middle class segments of American society. The pioneers of the movement, the youth who have stepped out into inner space, come from that segment of society which generally produces the core management and administrators of society.⁶ Part of the drop-out protest is the rejection of society's work pattern for the sake of more "natural or spiritual work." Hippies generally consider nine-to-five work in the Technological Establishment of American society as spiritually, emotionally, and physically harmful.⁷ A most significant impact on the new scene is that it represents a serious attack on the contemporary values, goals, and "advantages" of the larger society.⁸

The Establishment has nurtured the present generation and contributed to the generation gap. Television is a foster parent that has compressed time. An entire story takes only 60 minutes (less time for the ubiquitous commercials), creating a sense of immediacy. The entire Earth (and Moon) are brought into the home. The imagery of heros is changing from "riding into the Arizona sunset" to "Midnight Cowboy walking a city street."

The younger generation live in a miracle television world where every human problem has a simple chemical solution. If you want to be loved spray deodorant under your arms, protein mist onto your hair, DDT onto your bugs and ants and Redi-Whip onto your deserts. If you want to be a lover gargle w. n Scope, dye with Clairol, groom with Score, brush with Gleem, and take Geritol for iron-poor blood. Pain is not

⁶Ibid., pp. 26-27.

⁷Ibid., pp. 305-306.

⁸Ibid., p. 27.

to be tolerated. If you have a headache, take an Aspirin, Bufferin, or Excedrin pill; can't sleep, take a Sleepez pill; can't stay awake, take a No-Doz pill; want to get pregnant, take a pill; don't want to get pregnant, take THE Pill; want to escape reality? That's right, take a pill.

The unrest and the violence on the college campuses is growing. Don Hartsock, UCLA campus Ombudsman, supports the student concern to the extent that he believes the colleges are teaching 20th century technology by use of 19th century philosophy in 17th or 18th century institutions with 14th century organizations. He compares the Board of Regents to the House of Lords, the Chancellor to the Duke, the faculty to the nobles, the students to the apprentice guilders, and the staff to the peasants.⁹

For the above reasons, the younger generation is not content to maintain the "American Dream" of the poor boy who makes good. They expect to move "up-or-out" rapidly. In their own words, they want a piece of the action in the decision-making. According to Dr. Lewis Yablonsky, professor of sociology, San Fernando Valley State College, what youth wants is a more loving humanistic society.¹⁰

Collective bargaining with the younger work force will probably involve issues such as:¹¹

Right to discipline supervisors

⁹Address by Don Hartsock at 13th Annual Research Conference on Industrial Relations, held in Los Angeles, California on March 17, 1970.

¹⁰Loc. cit. Address by Dr. Lewis Yablonsky at this conference.

¹¹Loc. cit. Conclusions drawn from content of various speeches given at this conference and from panel discussion that was held.

Quick grievance procedures

Emphasis on leisure time: shorter work week, floating holidays, more holidays, and more mini vacations (3- to 4-day weekends)

Challenging the right of management to make decisions on so-called management rights

Pregnancy health allowance for single girls, they want to be treated as individuals

Guaranteed annual salary with inverse seniority for lay-offs (privilege of lay-off)

Portable retirement plans (company to company)

Both union and management officials must close the generation gap for collective bargaining with the younger work force or suffer the consequences. Failure to recognize that this younger work force has a different set of values from those of the older generation (The Establishment) may result in union officials losing their positions and management having serious labor-management relations problems.

Chapter 6

MANAGEMENT ACTION

In this chapter, information provided in the foregoing chapters is used in presenting the action taken and that required by the Naval Missile Center in preparing to negotiate a contract with NAGE (and live with it).

The Naval Missile Center is the decendent of the Naval Air Missile Test Center established in 1946 at Point Mugu, California and is a Shore (Field) activity of the Naval Air Systems Command. The mission of the Naval Missile Center is to perform test, evaluation, development support, and exercise engineering cognizance as assigned on naval weapons, weapon systems, and related devices.

Simplified organization charts showing the Naval Missile Center's location with regard to the overall Navy and the internal organization of the Naval Missile Center are presented as Figure 9 and Figure 10, respectively.

Actions Taken

The Naval Missile Center is preparing to negotiate a contract with the National Association of Government Employees Local R12-33. The

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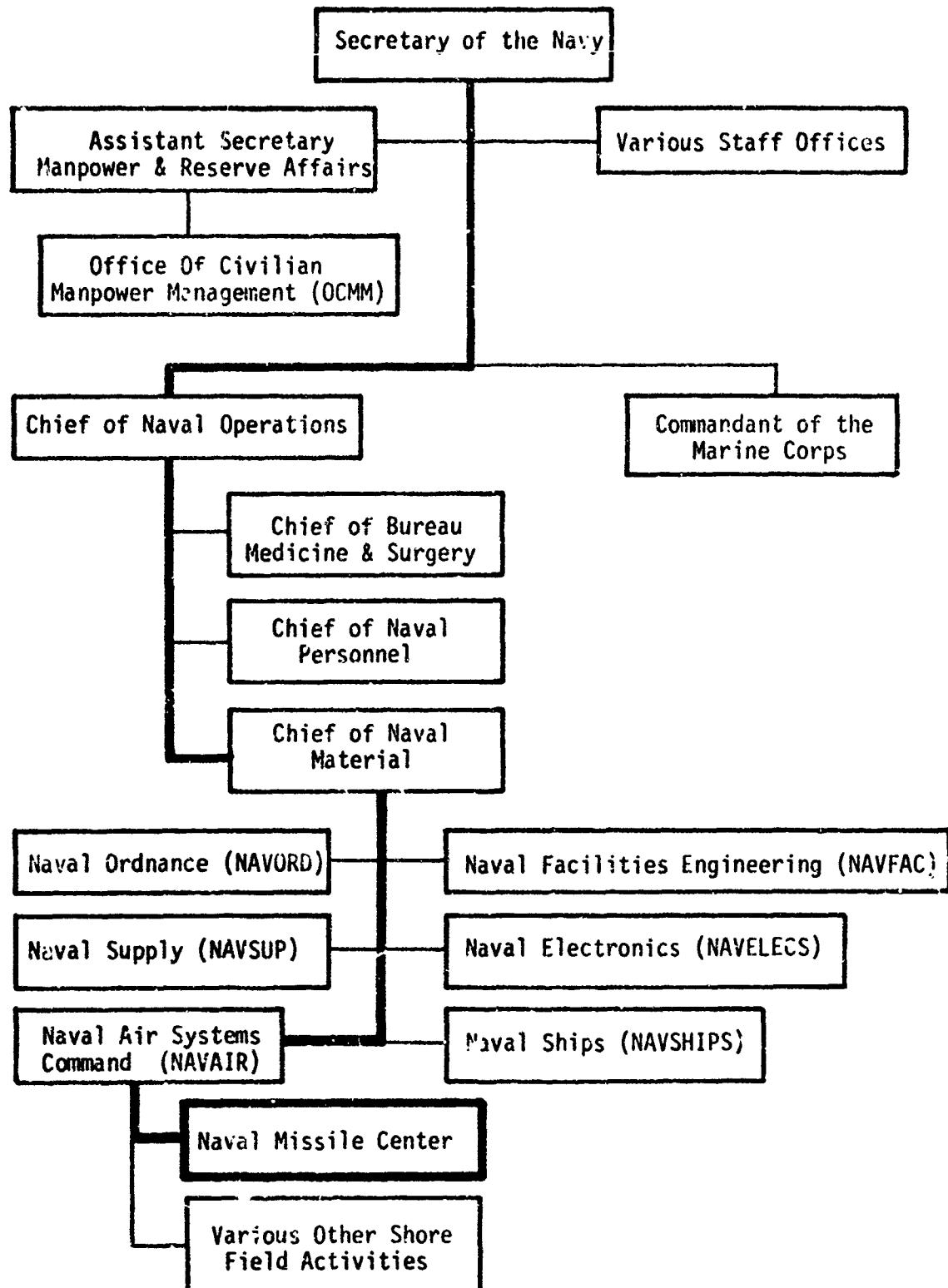


Figure 9. Navy Organization (Simplified)

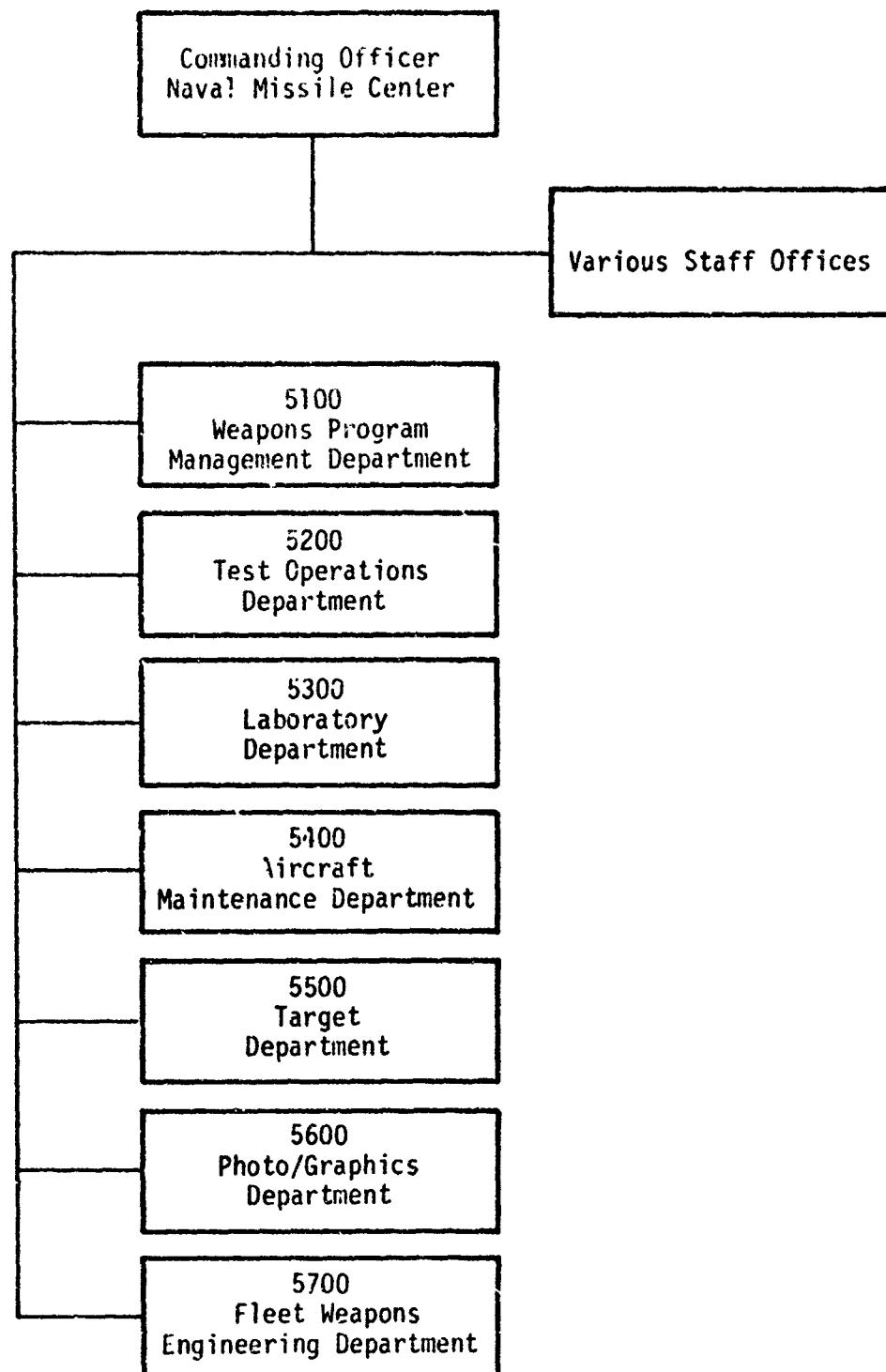


Figure 10. Naval Missile Center Organization (Simplified)

unit of all nonsupervisory wage board (blue-collar) employees is represented by NAGE under an Exclusive Recognition granted November 14, 1969 in consonance with Executive Orders 10988 and 11491. This unit consists of 320 employees of which 141 are NAGE dues-paying members and 28 have signed authorization cards.¹ Thus, 52.8 percent of the employees in the unit selected NAGE to represent them. Table 7 provides population statistics for the Naval Missile Center showing membership in NAGE, by department. Events leading to the granting of the Exclusive Recognition are tabulated in Table 8.

Table 7
Naval Missile Center Population
May 1 1970

Department	Ungraded Per Diem	Graded Per Annum	NAGE Members
Command/Staff		38	0
Weapons Program Management (5100)		95	0
Test Operations (5200)	64	228	22
Laboratory (5300)	1	371	1
Aircraft Maintenance (5400)	118	33	63
Target (5500)	125	138	60
Photo/Graphics (5600)	7	129	0
Fleet Weapons Engineering (5700)	0	146	0
Total	315	1,178	152

¹Authorization cards grant a union the right to represent an employee who is not a union member.

Table 8
Events Leading to Granting of Exclusive Recognition

Date	Reference	Function
25 Aug 1969	NAGE letter	Requested election for Exclusive Recognition based on 30% representation required by Executive Order 10988.
5 Sept 1969	NAGE letter	Proof of representation, 97 dues-paying members, 12 authorization cards.
16 Sept 1969	NMC letter serial 950	After verification of 30%, acknowledge receipt of request.
18 Sept 1969		NMC posted necessary notices for election.
18 Sept 1969	NMC letter 173/lm	Letter to other unions advising of proposal to establish a unit with Exclusive Recognition.
29 Sept 1969	AFGE	Challenged NAGE on right for exclusive--thus to be added are ballots AFGE would show 10% representation.
6 Oct 1969	NAGE letter	Amended first request by showing over 50% representation, thereby removing requirement for election.
23 Oct 1969	NMC letter 173/lm	Acknowledge receipt of letter of 6 Oct. and requested proof of over 50% representation.
21 Oct 1969	NAGE letter	Certifying total figures of 141 members and 28 authorization cards for 52.8%.
24 Oct 1969	NMC letter serial 2966	Requested Office of Civilian Manpower Management (OCMM) ruling on appropriateness of unit.
29 Oct 1969	NAGE telegram	NAGE protested to OCMM, NMC delay in granting recognition.
29 Oct 1969	OCMM letter 041.6:eg	In answer to NMC letter of 24 Oct. interposed no objection to establishment of the proposed unit.
29 Oct 1969	E.O. 11491	Executive Order 11491 signed into law by President Nixon. E.O. 10988 rules for granting Exclusive Recognition still applied in this case.
3 Nov 1969	AFGE letter	AFGE withdrew challenge due to 30% representation required with over 50% validated by NAGE.
14 Nov 1969	NMC letter 3154	Commanding Officer, NMC, Captain L. A. Hopkins, granted NAGE Exclusive Recognition for the unit of all NMC nonsupervisory wage board employees.
18 Nov 1969	Office of the Secretary, Secretary of the Navy letter	By direction of Secretary of Navy, review indicated NMC had proceeded as required by E.O. 10988; therefore there were no unfair labor charges warranted.

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Selection of management negotiation team members. In late October 1969, when it became apparent that the negotiation of a contract with NAGE was eminent, the Commanding Officer of the Naval Missile Center appointed a four-man negotiating team as follows:

Chief Spokesman	- Commander Ernest Yocom	Aircraft Maintenance Officer (118 wage board employees).
Member	- Twain C. Lockhart	Associate Target Officer (125 wage board employees).
Member	- Frank A. Cavanagh	Head, Flight Test Instrumentation Division of Test Operations Department (64 wage board employees).
Member	- Boyd D. Iverson	Employee Management Cooperation Specialist. Pacific Missile Range Civilian Personnel Office ² (advisor on labor relations).

In the selection of the Naval Missile Center members of the negotiating team, prime concern was to have line managers with the largest number of affected employees under their supervision and a military man as the chief spokesman to head the team.

In the selection of a management team, several factors should be considered.

Member's interests. All members of the negotiating team should have an interest in labor-management relations and a desire to participate in the negotiations. It should be possible for a member to be spared from his regular duties to properly prepare for, conduct, and to follow up on the results of the negotiations.

²Pacific Missile Range provides all Civilian Personnel Officer functions for all commands at the Point Mugu Naval Complex.

Commanding Officer not a member. The Commanding Officer should avoid being on the negotiating team and can be more effective by delegating negotiations to subordinates for the following reasons:

1. He does not have the time to be directly involved in the negotiations.
2. His status or image can be damaged by bargaining directly with employees.
3. By being directly involved in bargaining, the Commanding Officer can alienate the employees or the union, thus undermining his leadership role.
4. By being on the negotiation team, the Commanding Officer effectively removes line managers from a crucial involvement with the employees.
5. When employees negotiate directly with the Commanding Officer, this can be construed to be a form of "by-passing" line managers, which is generally an unsound policy.
6. The Commanding Officer has the final decision-making authority for management. The negotiators for the union are not the final decision-making body for the employees, as the members must ratify the agreement. Although management is expected to abide by its commitments made at the negotiating sessions, the employee's team can always withhold commitments pending ratification of the union members. If the Commanding Officer is not on the negotiating team, this would also hold true for the management team.

Military-civilian team. To reflect the partnership that characterizes Navy management, the negotiating team should consist of both military and civilian personnel.

Chief spokesman. The establishment of the chief spokesman as the chairman of the negotiating team is essential for achieving efficiency, continuity, and effectiveness in the presentation of managements position at the negotiating table. Should the chief spokesman or chairman be military or civilian? A statement made by Rear Admiral Raymond J. Schneider, USN, Assistant Commander for Research and Development, Naval Air Systems Command, in a presentation to the Senior Line Manager Institute, October 29, 1969, on the subject of the military/civilian management team, seems best to answer the question.

Should we have a military emphasis or a civilian emphasis? I have decided that we should stress both. As I have told you, back in 1959 I became completely convinced that no longer could there be a simple, blue-suited line management in the Navy, with all the civilians assumed in the military mind as junior to all ensigns. And if our enlisted men are involved, are the civilians junior to them also? You must have run into this type of thinking somewhere in your travels.³

There should be only one spokesman for the team. More than one spokesman can create the following problems:

1. Conflicts arise between speakers. Misinterpretations arise regarding positions taken.
2. Too much cross discussion may arise between the two parties, making agreement almost impossible.
3. The team might reveal its strategy unintentionally or at an inappropriate time.
4. Several spokesmen can reveal or create disunity in the team. If the chief spokesman needs to involve his team members, this can be done by allowing them to speak, but this is generally done in caucus.

³The Journal of the Navy Civilian Manpower Management, (Washington: Office of Civilian Manpower Management, Spring, 1970), p. 2.

The chief spokesman is the person in charge of the management team negotiations and is, therefore, in an extremely important management position. He should hold a high-level management position to show management concern for the value of negotiations. He should have a nimble mind with a well developed sense of timing and should be able to sense and exploit shifts in sentiment and temperament on the part of union negotiators. Individuals whose thinking is hidebound and formalistic tend to hinder rather than help the successful conclusion of negotiations. Negotiation refers to the process of making proposals, often described as demands; discussing such proposals; advancing counterproposals; bargaining; and, if possible, arriving at an agreement. The process may involve elements of trading as concessions are granted by each of the parties. When the chief spokesman is selected, consideration should be given to his qualities of patience, skill in oral communications, persuasiveness, and familiarity with the organization and the negotiating procedure. He must be familiar with the rules, regulations, and laws governing the employees, be respected by the employees, and have a reputation for fairness. A sense of humor is a great asset, for humor is a great relaxer of tensions. Many successful negotiations would have been failures without humor.

To be a successful chief spokesman, or for that matter a member of the team, one must be flexible, be able to adapt to the unexpected, and to change at a moment's notice the form and style of negotiation, based on intuitive judgment of how the union representatives are feeling or will react to the new approach. The management negotiators should possess an above average insight into how people function and a sensitivity to personalities.

Line managers. The importance of having "line" managers represented on the negotiation team is worth stressing, for line managers have the responsibility for making the labor agreement work "on the line." They deserve a voice in determining the vital decisions affecting the "living conditions" which are being negotiated. Line management often knows better than anyone else how the organization can live with the conditions negotiated. To do its job effectively, line management should be directly confronted by the employees across the bargaining table. Such a process brings line managers in direct contact with the suggestions and problems of the employees. The key person in any organization's labor relations is the first-line supervisor for it is at that level that the employee-management attitudes are formed. The first line supervisor should not participate in the negotiations for they are too close to the employees on a daily basis. Should they serve on the negotiating team, they might damage their effective relationship with their employees. They do not have organization-wide management responsibilities, but are limited to special areas and, therefore, do not possess the qualities required to negotiate for the entire organization. First line supervisors should, however, be consulted by the team on a regular basis prior to and during negotiations.

Industrial relations function. One member of the negotiating team should be completely familiar with the laws, rules, and regulations governing the employees. Specific expertise in Executive Order 11491 and in the Federal Personnel Manual is mandatory. Although all members of the negotiating team should have a good understanding of these items, an expert is highly desirable. A member of the Civilian Personnel Officer's staff is usually a good choice for this position.

There is considerable controversy, primarily between line managers and personnel officers, as to who should be the chief spokesman. The line managers are firm in their belief that the chief spokesman should be a line manager for only they can understand the problems involved in living with the agreement. They generally consider that a personnel officer as chief spokesman would be only a "mouth piece" and therefore ineffective. Conversely, the personnel officers contend that only they have the "feel" for the organization-wide employee-management problem and understand the rules and regulations. They generally consider line managers as limited in perspective and feel they may give up management prerogatives unnecessarily due to their lack of expertise in employee rules and regulations.

During practice negotiations, it was observed that skilled union representatives (in this case training specialists) were able to obtain management negotiator agreements on items that were in direct opposition to existing laws, rules, or regulations. This was particularly true when Naval officers, unfamiliar with Civil Service rules and regulations, play the role of the management team chief spokesman.⁴

Selection of the chief spokesman should be based on the considerations listed previously under chief spokesman, not on the necessity for a team member to perform the industrial relations function.

Actions to be Taken

There are many actions on the part of Naval Missile Center manage-

⁴Labor Negotiations Seminar, (Washington: Naval Civilian Manpower Management Institute, February 1970).

ment yet to be taken. Some of these will require continuous effort on the part of management if Naval Missile Center labor relations are to be successful. Many of these center around negotiation and the collective agreement. Negotiation is the process which creates the collective agreement. A collective agreement or labor contract is the charter on which employees and unions agree. It is a written statement of terms mutually accepted as defining the relationship and working conditions to be maintained in the bargaining unit.

Opportunities presented. Although the primary purpose of negotiation sessions is to produce a written agreement, the sessions also provide an opportunity to serve other functions as well. To the well prepared management participant, a number of important opportunities are made available. For example, management can inform or otherwise explain to the union representatives some of the basic Government personnel policies and their implementation at the Naval Missile Center. Discussions of the union proposals should give management an opportunity to increase the union's understanding of management's functions and responsibilities along with problems management faces in carrying them out. Management is also provided an opportunity to learn a good deal about what is going on at the working level and to gain valuable insight into union attitudes and employee thinking. The negotiation sessions should develop mutual trust and respect between the parties which is an indispensable basis for a constructive labor management relationship. Of greater importance, the negotiation sessions should result in improved solutions to problems confronting managers of the Naval Missile Center and its wage board employees.

Although management and labor must follow structural arrangements laid down by law, collective bargaining practices are essentially voluntary. Management and labor, between themselves, work out arrangements that govern their mutual relationship; arbitration to settle grievances under contracts or interpretation of the contracts is voluntary. Both sides may take direct action in settling deadlocks.⁵

The Naval Missile Center management should consider these opportunities and ensure that the management negotiating team is knowledgeable on the inputs management desires them to make at the appropriate time during negotiations.

Management participation. Success in negotiation can be directly related to the thoroughness of advance preparation. Management must grant the negotiating team the authority necessary to bind agreement. The team should be the continuing focal point for management's coordinated approach to relations with the employee organization. The team should draw the key managers concerned with the negotiations into the preparations at an early stage. These managers and supervisors can contribute much of the background information necessary for effective negotiations. At the same time they feel they have contributed to the negotiation and this will help supervisors accept the end product of the negotiation.

The only circumstances people fully understand are those they have themselves experienced. The only ideas they fully grasp are those in whose formulation they have participated.⁶

Upon receipt of the union's proposed agreement management should establish with the negotiation team its general position, establishing limits within which the negotiation team should operate. The team should

⁵Ken O. Warner, Mary L. Hennessy, Public Management at the Bargaining Table, (Chicago, Ill., 1967), p. 11.

⁶Franklin S. Haiman, Group Leadership and Democratic Action, (Cambridge, Mass.: Houghton Mifflin Co., 1959), p. 51.

then consider the proposal in depth, should try to find out why the union is making a certain proposal. Explore what troubles have been experienced in the past in this area. Discuss the proposal with supervisors and even with the union. Learn as much as possible about the hidden agenda, the whole sociological picture.

The team should take the following steps on each item proposed prior to negotiations:

1. Develop management's position on the proposed item.
2. Develop reasons for the position.
3. Prepare counterproposals.
4. Establish limits within which the team will negotiate.
5. Plan team strategy for negotiating the item.

Another useful method for avoiding supercharged emotions is one that has been suggested by Major Charles Estes, a member of the staff of the United States Conciliation Service.

First classify all the issues in the dispute into two categories: 'Less controversial,' 'More controversial.' Deal with less controversial matters first. The psychology behind this is sound. Groups can grow into the habit of arriving at agreement. Spirit of cooperation is built up which makes it easier to handle more difficult problems.⁷

The management position taken on each item of the proposed agreement should involve consideration of the rights management is giving up, what other Naval activities have settled for, and what this particular union settles for.

After the team has accomplished the steps listed above on each item proposed, a meeting with the Commanding Officer should be held to review the items and confirm or re-establish the negotiation limits.

⁷Ibid., p. 193.

Preparation of negotiators. The importance of preparation required by the individuals selected as negotiators cannot be over emphasised. Their responsibility to be prepared for negotiations is aptly expressed by a statement made by Mr. W. V. Gill:

So the message I leave with you as managers is to prepare yourself and prepare well to act responsibly. You will need the labor relations technical knowledge and the problem-solving attitude that we mean by the phrase 'employee-management cooperation,' which is still our fundamental objective in labor-management relations in the Federal Service.⁸

In the quest for knowledge, the negotiator should consider the entire sociological picture. The historical developments of the labor movement in the United States, and specifically in the Federal Service and the Navy, must be studied for what has taken place in the labor-relations field over the years, and the effects it has had on management. An understanding of legislation and its effect on the labor-management relationship is required. The latest trends, such as the postal strike, should be analyzed to detect the tone of negotiations. Are the unions going to demand the right to negotiate on money items and others forbidden by law, based on the precedent set by the postal settlement? Are they going to demand the strike ban be removed? Will the unions become more militant in their demands as a result of the postal victory? It appears that they will, as echoed by a union paper editorial, A New Ballgame.⁹

⁸Address by W. V. Gill, Director, Office of Labor-Management Relations, U. S. Civil Service Commission to the Los Angeles Federal Executive Board/San Diego Federal Executive Assn., San Diego, Calif., November 4, 1969.

⁹Federal News, National Association of Government Employers, Boston, Mass., April 30, 1970, Vol 8, No. 4, p. 2.

The Federal Governments' relations with its employees will never be the same again. No longer will the 3.1 million workers be content to shrug their shoulders and suffer the myriad of inequities solved by the oft-repeated and trite saying--that's the way it has always been--or you can't fight city hall. The postal employees had enough. They echoed the feelings of the vast majority of Federal workers when they went out on strike and found they could get away with it. They had a legitimate beef and their action should serve as a warning to Congress and Government that the time has run out on their shoddy treatment of the federal workers. Federal employees want action now. . . . to be treated as human beings and be given a fair shake.

The negotiators must be aware of the shift to a younger work force with a different culture and different goals and be prepared to deal with them in collective bargaining. Some of the thinking of the more militant youth can be found in Jerry Rubin's Do It. Often referred to as the "Communist Manifesto" of our era, Do It provides a scenario for the Future/Yippieland which states in part:

Previous revolutions aimed at seizure of the state's highest authority, followed by the takeover of the means of production. The Youth International Revolution will begin with mass breakdown of authority, mass rebellion, total anarchy in every institution in the western world. Tribes of longhairs, blacks, armed women, workers, peasants and students will take over.¹⁰

The negotiation team will not be dealing with youth with such extreme ideas but should be aware of such thinking.

The negotiators must develop the art of negotiating for negotiating is an art, but strategy and preparation must precede it. Strategy must be flexible to allow prompt changes in strategy and tactics as developments occur. The well prepared negotiating team will be flexible and the art of negotiation will come through experience.

Impasses in negotiations do not always result from an inability to resolve a problem, but rather from the ineptness of the negotiators.

¹⁰Jerry Rubin, Do It, (New York: Simon and Schuster, 1970), p. 256.

Impasses on significant issues do occur, but should not be the result of the lack of expertise of the parties or their failure to adapt constructive approaches to the problem. Unwarranted conflicts or unconstructive impasse situations can be reduced proportionately to the expertise in collective bargaining possessed by the negotiators. In the final analysis, it is efforts of the individual negotiators, to gain knowledge and understanding in the field of labor and human relations, that will determine the effectiveness of the negotiations.

Develop a positive attitude toward cooperative labor relations.

For the introduction, continuance, and growth of employee unions at the Naval Missile Center to be beneficial to both the employees and management, the development of a positive attitude toward cooperative labor relations is mandatory. Management must face facts: once exclusive recognition is granted to a union, it seldom goes away. With the trends indicated by the previous chapters, it is safe to assume more union activity rather than less will occur at the Naval Missile Center. Negotiated agreements are only a basis for understanding, and the best written agreement cannot guarantee good union-management relations. These good relations come about only if the basic intent behind the written agreement and the spirit in which management follows through reflect a positive attitude toward a cooperative relationship with the union. Collective negotiations will become a way of life for managers. Union problems will become as routine as material, scheduling, production, and other problems connected with getting the job done. If calm judgment and good faith dealings with union problems are applied in the same manner as it has been to the other problems faced by the manager, the organization

will continue to function successfully.

It is possible to have a cooperative-relationship with unions and maintain management control. This cooperative-relationship comes about when management willingly acknowledges the right of the union to represent the employees in the unit, to process grievances, to consult and to be consulted, to negotiate agreements on personnel policies, practices, and working conditions, and to be informed of management policy changes.

Willem B. Vosloo's research shows that there was evidence of "feet-dragging," "minimum compliance" and even "intimidation" on the part of agency management in their indifference to implementing Executive Order 10988. Since that time, however, strong emphasis has been placed on cultivating a more positive attitude toward employee-management cooperation in various handbooks and training material. The U. S. Department of Army, Labor Negotiations at the Local Level states:

It is essential that management officials who are involved in labor-management relations believe that cooperation can not only result in a better deal for employees but can be beneficial to management as well. If labor-management cooperation is approached with the attitude that there is something to be gained by management and the employees as well as unions, then and only then will it be possible for management to look on negotiations as something more than a gradual erosion of traditional management rights. . . . The hurdle which local management must face when it is to enter into negotiations with a union is to recognize and overcome its own rather natural hostility toward the instrument which appears to be upsetting the established order of things; namely, the union.¹¹

There are areas of mutual interest such as maintaining a good work force, high productivity, and others required to promote the effective and efficient operation of the Naval Missile Center. However, it

¹¹Willem B. Vosloo, Collective Bargaining in the United States Federal Civil Service, (Chicago: Public Personnel Association, 1966), pp. 145-146.

should be recognized that there are also areas of divergent interest. The unions represent the employees and when a disagreement arises between management and the employees, the union will support the employees unless they are unequivocally wrong. Cooperation does not mean complete agreement between union and management. It does mean a willingness to understand the other's point of view and getting along with people by applying the good human relations principles of respect, trust, courtesy, and mutual confidence.

It is well for management to understand that one of the main factors which cause employees to join unions is their desire to participate in making decisions which affect them. They resent paternalism.

Paternalistic managers fail to understand that workers don't want charity, that what they do want is the right to help to develop plans and the right to participate with management in activities which directly concern them.¹²

People are participative rather than passive by nature. The fact that employees want to participate in the decision making process is therefore not a reflection on failures by management. The ability to truly accept that fact along with the existence of the union are important attitudes. They are important attitudes in terms of union leadership. If management has a negative attitude toward unions, the better employees will not join the unions, thus leaving the leadership to less qualified employees. Although it is an unfair labor practice for management to either encourage or discourage union membership by any action, attitudes can be felt and can influence membership as effectively as direct actions.

¹²Willard E. Parker and Robert W. Kleemeier, Human Relations in Supervision, (New York: McGraw-Hill Book Co., 1951), p. 17.

The autocratic leader has no place in an organization with true union-management cooperation. One of the most famous treatises on leadership is Machiavelli's "The Prince." This manual of advice on how political power is gained and held should be required reading for every would-be dictator. In this particular work, Machiavelli made no attempt to justify or evaluate authoritarianism. He simply assumed that it was a natural state of affairs. Labor-management rapport is created by officially recognizing that maximum discussion and consultation with unions are not only desirable but essential. An "armed truce" where management recognized the union only because it is legally required to do so, results in management fighting the union at every turn and the union returning the same attitude. The autocratic "take it or leave it" attitude is not a suitable basis for cooperation since in effect it serves notice that there is really no room for cooperation. Although the following quote was made in 1959, it is even more applicable today.

The supervisor of today will do well to remember that the work group has undergone a change during the past twenty years. The men are, in many cases, younger in years but more mature in outlook. They are definitely better educated. The men are anxious to advance and with this in mind are studying their jobs, other jobs, the supervisor, and the company as a whole. Men today have a questioning attitude and seek the company and the work environment that they feel will satisfy them. The success of a supervisor is largely determined by his ability to get the facts, to interpret these facts to his employees, and the ability to reconcile the interests of his workers with the objective demands in the total work situation.¹³

Creative collective bargaining will help to establish a cooperative union-management relationship.

The tenets of this fresh approach rest heavily on the twin notion that (1) traditional industrial bargaining must become passe' and (2)

¹³William R. Spriegel, Edward Schulz and William B. Spriegel, Elements of Supervision, (New York: 2nd ed., John Wiley & Sons, Inc., 1959), p. 46.

management and unions alike must adopt new and different attitudes toward their common objective of attaining industrial peace through collective bargaining.¹⁴

There are many management benefits that result from a cooperative union-management relationship:

1. The Naval Missile Center can accomplish its mission more effectively with less nonproductive time spent resolving grievances and disputes.
2. The employees will have higher morale, therefore reducing abuse of sick leave, loafing, etc.
3. The union will insure that only legitimate grievances are pursued.
4. More uniform and improved personnel policies will be forced on management.
5. Improved two-way communications, through the union, between the employees and management.
6. Management will be forced to manage.

There is no guarantee that if the Naval Missile Center seeks cooperative union-management relations that it will happen. It is management's initiative rather than that of the union that will develop a cooperative relationship and it will be no better than the efforts put into developing it.

Dealing with supervisors. Executive Order 11491 has specifically excluded supervisory personnel from belonging to employee organizations. The Executive Order directs agencies to set up special arrangements, separate from the Labor Relations Program, for consultation and communications with supervisors and associations of supervisors. This has placed

¹⁴Kenneth O. Warner and Mary L. Hennessy, Public Management at the Bargaining Table, (Chicago: Public Personnel Association, 1967), p. 312.

the many supervisors in the management chain in a no man's land. With the multilevel organization there are many levels of supervision that do not consider themselves as part of management per se. Further, these levels of supervision are those closest to the employees and must make any negotiated agreement work.

One of the major consequences of collective bargaining is the change in the supervisor's capacity from an absolute to a constitutional monarch, who must operate within the framework of the union agreement. His every decision, large or small, may result in a grievance taken up by the union. He must now work with a union steward and the degree of personal harmony and production efficiency depends largely on his relations with the union steward.¹⁵

The Naval Missile Center, therefore, must deal with two major problem areas for supervisors: (1) create a system for consultation and communications with all levels of supervisors, and (2) reorient the supervisors to a changing group situation, one with union influence.

The first area can be solved by establishing periodic meetings with all supervisors and top management to discuss and consult on various policies, employee, and supervisors' problems. The formation of supervisors' associations should be encouraged. An all-out effort on the part of top management should be made to make all supervisors feel that they are in fact part of management.

The second area will require a retraining program. At the present time all new supervisory personnel at the Naval Missile Center are required to attend a 40-hour supervisory training course within six months after becoming a supervisor. Another 40-hour course is required

¹⁵Lloyd G. Reynolds, Labor Economics and Labor Relations, (New Jersey: Prentice-Hall, Inc., 1959, 3rd ed.), p. 325.

within two years. Labor relations must become a major part of these training courses. Management's educational task is twofold:

To impart the facts of the agreements, the procedures to be followed in case of grievances, and the position, responsibilities, and rights of the steward, etc. And to modify the deeper emotional reactions with regard to unionism that may require changing.¹⁶

This training is essential for the emotions will be as potent as actual knowledge of the agreement in determining the supervisor's behavior in dealing with employee problems. As discussed earlier, a positive attitude toward labor relations is essential to promote a cooperative union-management relationship. Unless this attitude extends from the Commanding Officer downward to the first-line supervisor, the Commanding Officer's attitude will be to no avail. It is at that first supervisory level where the person-to-person relations take place on a daily basis. The first-line supervisor effectively establishes whether a cooperative relationship exists. Maximum use of management's negotiating team should be made in the supervisory training program, for the team has the most intimate knowledge available on the agreement.

¹⁶C. H. Lawshe, Psychologist of Industrial Relations, (New York: McGraw-Hill Book Co., Inc., 1952), p. 374.

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* Asterisks indicate data from those publications used in figures 1, 2, 5, 6.

APPENDIXES

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Appendix A.

EXECUTIVE ORDER 10988
Employee-Management Cooperation
in the Federal Service

WHIEREAS participation of employees in the formulation and implementation of personnel policies affecting them contributes to effective conduct of public business; and

WHIEREAS the efficient administration of the Government and the well-being of employees require that orderly and constructive relationships be maintained between employee organizations and management officials; and

WHIEREAS subject to law and the paramount requirements of the public service, employee-management relations within the Federal service should be improved by providing employees an opportunity for greater participation in the formulation and implementation of policies and procedures affecting the conditions of their employment; and

WHIEREAS effective employee-management cooperation in the public service requires a clear statement of the respective rights and obligations of employee organizations and agency management:

NOW, **T**HEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by section 1753 of the Revised Statutes (5 U.S.C. 631), and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

Section 1. (a) Employees of the Federal Government shall have, and shall be protected in the exercise of, the right, freely and without fear of penalty or reprisal, to

form, join and assist any employee organization or to refrain from any such activity. Except as hereinafter expressly provided, the freedom of such employees to assist any employee organization shall be recognized as extending to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress or other appropriate authority. The head of each executive department and agency (hereinafter referred to as "agency") shall take such action, consistent with law, as may be required in order to assure that employees in the agency are apprised of the rights described in this section, and that no interference, restraint, coercion or discrimination is practiced within such agency to encourage or discourage membership in any employer organization.

(b) The rights described in this section do not extend to participation in the management of an employee organization, or acting as a representative of any such organization, where such participation or activity would result in a conflict of interest or otherwise be incompatible with law or with the official duties of an employee.

Section 2. When used in this order, the term "employee organization" means any lawful association, labor organization, federation, council, or brotherhood having as a primary purpose the improvement of working conditions among Federal employees, or any craft, trade or industrial union whose membership includes both Federal employees and employees of private organizations; but such term shall not

include any organization (1) which asserts the right to strike against the Government of the United States or any agency thereof or to assist or participate in any such strike, or which imposes a duty or obligation to conduct, assist or participate in any such strike or (2) which advocates the overthrow of the constitutional form of Government in the United States, or (3) which discriminates with regard to the terms or conditions of membership because of race, color, creed or national origin.

Section 3. (a) Agencies shall accord informal, formal or exclusive recognition to employee organizations which request such recognition in conformity with the requirements specified in sections 4, 5 and 6 of this order, except that no recognition shall be accorded to any employee organization which the head of the agency considers to be so subject to corrupt influences or influences opposed to basic democratic principles that recognition would be inconsistent with the objectives of this order.

(b) Recognition of an employee organization shall continue so long as such organization satisfies the criteria of this order applicable to such recognition, but nothing in this section shall require any agency to determine whether an organization should become or continue to be recognized as exclusive representative of the employees in any unit within 12 months after a prior determination of exclusive status with respect to such unit has been made pursuant to the provisions of this order.

(c) Recognition, in whatever form accorded, shall not—

► preclude any employee, regardless of employee organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable law, rule, regulation, or established agency policy, or from choosing his own representative in a grievance or appellate action; or

► preclude or restrict consultations and dealings between an agency and any veterans organization with respect to matters of particular interest to employees with veterans preference; or

► preclude an agency from consulting or dealing with any religious, social, fraternal or other lawful association, not qualified as an employee organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members, when such consultations or dealings are duly limited so as not to assume the character of formal consultation on matters of general employee-management policy or to extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

Section 4. (a) An agency shall accord an employee organization, which does not qualify for exclusive or formal recognition, informal recognition as representative of

its member employees without regard to whether any other employee organization has been accorded formal or exclusive recognition as representative of some or all employees in any unit.

(b) When an employee organization has been informally recognized it shall, to the extent consistent with the efficient and orderly conduct of the public business, be permitted to present to appropriate officials its views on matters of concern to its members. The agency need not, however, consult with an employee organization so recognized in the formulation of personnel or other policies with respect to such matters.

Section 5. (a) An agency shall accord an employee organization formal recognition as the representative of its members in a unit as defined by the agency when (1) no other employee organization is qualified for exclusive recognition as representative of employees in the unit, (2) it is determined by the agency that the employee organization has a substantial and stable membership of no less than 10 per centum of the employees in the unit, and (3) the employee organization has submitted to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of objectives.

When, in the opinion of the head of an agency, an employee organization has a sufficient number of local organizations or a sufficient total membership within such agency, such organization may be accorded formal recognition at the national level, but such recognition shall not preclude the agency from dealing at the national level with any other employee organization on matters affecting its members.

(b) When an employee organization has been formally recognized, the agency, through appropriate officials, shall consult with such organization from time to time in the formulation and implementation of personnel policies and practices, and matters affecting working conditions that are of concern to its members. Any such organization shall be entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its views thereon in writing. In no case, however, shall an agency be required to consult with an employee organization which has been formally recognized with respect to any matter which, if the employee organization were one entitled to exclusive recognition, would not be included within the obligation to meet and confer, as described in section 6(b) of this order.

Section 6. (a) An agency shall recognize an employee organization as the exclusive representative of the employees in an appropriate unit when such organization is eligible for formal recognition pursuant to section 5 of this order, and has been designated or selected by a majority of the employees of such unit as the representative of such employees in such unit.

Units may be established on any plant or installation, craft, functional or other basis which will ensure a clear and identifiable community of interest among the employees concerned, but no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

Except where otherwise required by established practice, prior agreement, or special circumstances, no unit shall be established for purposes of exclusive recognition which includes (1) any managerial executive, (2) any employee engaged in Federal personnel work in other than a purely clerical capacity, (3) both supervisors who officially evaluate the performance of employees and the employees whom they supervise, or (4) both professional employees and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit.

(b) When an employee organization has been recognized as the exclusive representative of employees of an appropriate unit it shall be entitled to act for and to negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership. Such employee organization shall be given the opportunity to be represented at discussions between management and employees or employee representative concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

The agency and such employee organization, through appropriate officials and representatives, shall meet at reasonable times and confer with respect to personnel policy and practices and matter affecting working conditions, so far as may be appropriate subject to law and policy requirements. This extends to the negotiation of an agreement, or any question arising thereunder, the determination of appropriate techniques, consistent with the terms and purposes of this order, to assist in such negotiation, and the execution of a written memorandum of agreement or understanding incorporating any agreement reached by the parties. In exercising authority to make rules and regulations relating to personnel policies and practices and working conditions, agencies shall have due regard for the obligation imposed by this section, but such obligation shall not be construed to extend to such areas of discretion and policy as the mission of an agency, its budget, its organization and the assignment of its personnel, or the technology of performing its work.

Section 7. Any basic or initial agreement entered into with an employee organization as the exclusive representative of employees in a unit must be approved by the head of the agency or any official designated by him. All agreements with such employee organizations shall also be subject to the

following requirements, which shall be expressly stated in the initial or basic agreement and shall be applicable to all supplemental, implementing, subsidiary or informal agreements between the agency and the organization:

(1) In the administration of all matters covered by the agreement officials and employees are governed by the provisions of any existing or future laws and regulations, including policies set forth in the Federal Personnel Manual and agency regulations, which may be applicable, and the agreement shall at all times be applied subject to such laws, regulations and policies;

(2) Management officials of the agency retain the right, in accordance with applicable laws and regulations, (a) to direct employees of the agency, (b) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees, (c) to relieve employees from duties because of lack of work or for other legitimate reasons, (d) to maintain the efficiency of the Government operations entrusted to them, (e) to determine the methods, means and personnel by which such operations are to be conducted; and (f) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency.

Section 8. (a) Agreements entered into or negotiated in accordance with this order with an employee organization which is the exclusive representative of employees in an appropriate unit may contain provisions, applicable only to employees in the unit, concerning procedures for consideration of grievances. Such procedures (1) shall conform to standards issued by the Civil Service Commission, and (2) may not in any manner diminish or impair any rights which would otherwise be available to any employee in the absence of an agreement providing for such procedures.

(b) Procedures established by an agreement which are otherwise in conformity with this section may include provisions for the arbitration of grievances. Such arbitration (1) shall be advisory in nature with any decisions or recommendations subject to the approval of the agency head; (2) shall extend only to the interpretation or application of agreements or agency policy and not to changes in or proposed changes in agreements or agency policy; and (3) shall be invoked only with the approval of the individual employee or employees concerned.

Section 9. Solicitation of memberships, dues, or other internal employee organization business shall be conducted during the non-duty hours of the employees concerned. Officially requested or approved consultations and meetings between management officials and representatives of recognized employee organizations shall, whenever practicable, be conducted on official time.

but any agency may require that negotiations with an employee organization which has been accorded exclusive recognition be conducted during the non-duty hours of the employee organization representatives involved in such negotiations.

Section 10. No later than July 1, 1962, the head of each agency shall issue appropriate policies, rules and regulations for the implementation of this order, including A clear statement of the rights of its employees under the order, policies and procedures with respect to recognition of employee organizations, procedures for determining appropriate employee units, policies and practices regarding consultation with representatives of employee organizations, other organizations and individual employees, and policies with respect to the use of agency facilities by employee organizations. Insofar as may be practicable and appropriate, agencies shall consult with representatives of employee organizations in the formulation of these policies, rules and regulations

Section 11. Each agency shall be responsible for determining in accordance with this order whether a unit is appropriate for purposes of exclusive recognition and, by an election or other appropriate means, whether an employee organization represents a majority of the employees in such a unit so as to be entitled to such recognition. Upon the request of any agency, or of any employee organization which is seeking exclusive recognition and which qualifies for or has been accorded formal recognition, the Secretary of Labor, subject to such necessary rules as he may prescribe, shall nominate from the National Panel of Arbitrators maintained by the Federal Mediation and Conciliation Service one or more qualified arbitrators who will be available for employment by the agency concerned for either or both of the following purposes, as may be required:

► to investigate the facts and issue an advisory decision as to the appropriateness of a unit for purposes of exclusive recognition and as to related issues submitted for consideration;

► to conduct or supervise an election or otherwise determine by such means as may be appropriate, and on an advisory basis, whether an employee organization represents the majority of the employees in a unit. Consonant with law, the Secretary of Labor shall render such assistance as may be appropriate in connection with advisory decisions or determinations under this section but the necessary costs of such assistance shall be paid by the agency to which it relates. In the event questions as to the appropriateness of a unit or the majority status of an employee organization shall arise in the Department of Labor, the duties described in this section which would otherwise be the responsibility of the Secretary of Labor shall be performed by the Civil Service Commission.

Section 12. The Civil Service Commission shall establish and maintain a program to assist in carrying out the objectives of this order. The Commission shall develop a program for the guidance of agencies in employee-management relations in the Federal service, provide technical advice to the agencies on employee-management programs; assist in the development of programs for training agency personnel in the principles and procedures of consultation, negotiation and the settlement of disputes in the Federal service, and for the training of management officials in the discharge of their employee-management relations responsibilities in the public interest, provide for continuous study and review of the Federal employee-management relations program and, from time to time, make recommendations to the President for its improvement.

Section 13. (a) The Civil Service Commission and the Department of Labor shall jointly prepare (1) proposed standards of conduct for employee organizations and (2) a proposed code of fair labor practices in employee-management relations in the Federal service appropriate to assist in securing the uniform and effective implementation of the policies, rights and responsibilities described in this order.

(b) There is hereby established the President's Temporary Committee on the implementation of the Federal Employee-Management Relations Program. The Committee shall consist of the Secretary of Labor, who shall be chairman of the Committee, the Secretary of Defense, the Postmaster General, and the Chairman of the Civil Service Commission. In addition to such other matters relating to the implementation of this order as may be referred to it by the President, the Committee shall advise the President with respect to any problems arising out of completion of agreements pursuant to sections 6 and 7, and shall receive the proposed standards of conduct for employee organizations and proposed code of fair labor practices in the Federal service, as described in this section, and report thereon to the President with such recommendations or amendments as it may deem appropriate. Consonant with law, the departments and agencies represented on the Committee shall, as may be necessary for the effectuation of this section, furnish assistance to the Committee in accordance with section 214 of the Act of May 3, 1945, 59 Stat. 134 (31 USC 69i). Unless otherwise directed by the President, the Committee shall cease to exist 30 days after the date on which it submits its report to the President pursuant to this section.

Section 14. The head of each agency, in accordance with the provisions of this order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those

provided preference eligibilities under section 14 of the Veterans' Preference Act of 1944, as amended. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 14 of the Veterans' Preference Act. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency. This section shall become effective as to all adverse actions commenced by issuance of a notification of proposed action on or after July 1, 1962.

Section 15. Nothing in this order shall be construed to annul or modify, or to preclude the renewal or continuation, of any lawful agreement heretofore entered into between any agency and any representative of its employees. Nor shall this order pre-

clude any agency from continuing to consult or deal with any representative of its employees or other organization prior to the time that the status and representation rights of such representative or organization are determined in conformity with this order

Section 16. This order (except section 14) shall not apply to the Federal Bureau of Investigation, the Central Intelligence Agency, or any other agency, or to any office, bureau or entity within an agency, primarily performing intelligence, investigative, or security functions if the head of the agency determines that the provisions of this order cannot be applied in a manner consistent with national security requirements and considerations. When he deems it necessary in the national interest, and subject to such conditions as he may prescribe, the head of any agency may suspend any provision of this order (except section 14) with respect to any agency installation or activity which is located outside of the United States.

/Signed) JOHN F. KENNEDY
THE WHITE HOUSE,
January 17, 1962.

Appendix B.

EXECUTIVE ORDER 11491

Labor-Management Relations in the Federal Service

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

GENERAL PROVISIONS

Section 1. Policy. (a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section, and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

Sec. 2. Definitions. When used in this Order, the term —

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office;

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of formal or exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(d) "Guard" means an employee assigned to enforce against employees and other persons rules to protect agency property or the safety of persons on agency premises, or to maintain law and order in areas or facilities under Government control;

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which --

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) asserts the right to strike against the Government of the United States or any agency thereof, or to assist or participate in such a strike, or imposes a duty or obligation to conduct, assist or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

Sec. 3. Application. (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to --

(1) the Federal Bureau of Investigation;

(2) the Central Intelligence Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

Sec. 4. Federal Labor Relations Council. (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, an officer of the Executive Office of the President, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide services and staff assistance to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations —

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this Order;

(2) appeals on negotiability issues as provided in section 11 (c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

Sec. 5. Federal Service Impasses Panel. (a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

Sec. 6. Assistant Secretary of Labor for Labor-Management Relations. (a) The Assistant Secretary shall —

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council; and

(4) except as provided in section 19(d) of this Order, decide complaints of alleged unfair labor practices and alleged violations of the standards of conduct for labor organizations.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915, (38 Stat. 1084, as amended; 31 U.S.C. §686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

RECOGNITION

Sec. 7. Recognition in general. (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition, in whatever form accorded, does not --

(1) preclude an employee, regardless of whether he is a member of a labor organization, from bringing matters of personal concern to the attention of appropriate officials under applicable law, rule, regulations, or established agency policy; or from choosing his own representative in a grievance or appellate action;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members.

Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy, except as provided in paragraph (e) of this section, or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) An agency shall establish a system for intra-management communication and consultation with its supervisors or associations of supervisors. The communications and consultations shall have as their purposes the improvement of agency operations, the improvement of working conditions of supervisors, the exchange of information, the improvement of managerial effectiveness, and the establishment of policies that best serve the public interest in accomplishing the mission of the agency.

(f) Informal recognition shall not be accorded after the date of this Order.

Sec. 8 Formal Recognition. (a) Formal recognition, including formal recognition at the national level, shall not be accorded after the date of this Order.

(b) An agency shall continue any formal recognition, including formal recognition at the national level, accorded a labor organization before the date of this Order until --

(1) the labor organization ceases to be eligible under this Order for formal recognition so accorded;

(2) a labor organization is accorded exclusive recognition as representative of employees in the unit to which the formal recognition applies; or

(3) the formal recognition is terminated under regulations prescribed by the Federal Labor Relations Council.

(c) When a labor organization holds formal recognition, it is the representative of its members in a unit as defined by the agency when recognition was accorded. The agency, through appropriate officials, shall consult with representatives of the organization from time to time in the formulation and implementation of personnel policies and practices, and matters affecting working conditions that affect members of the organization in the unit to which the formal recognition applies. The organization is entitled from time to time to raise such matters for discussion with appropriate officials and at all times to present its views thereon in writing. The agency is not required to consult with the labor organization on any matter on which it would not be required to meet and confer if the labor organization were entitled to exclusive recognition.

Sec. 9. National consultation rights. (a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may confer in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

Sec. 10. Exclusive recognition. (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes -

- (1) any management official or supervisor, except as provided in section 24;
- (2) an employee engaged in Federal personnel work in other than a purely clerical capacity;
- (3) any guard together with other employees; or
- (4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) An agency shall not accord exclusive recognition to a labor organization as the representative of employees in a unit of guards if the organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be

provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union." Elections may be held to determine whether -

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative; or

(3) a labor organization should cease to be the exclusive representative.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

Sec. 11. Negotiation of agreements. (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency policies and regulations, a national or other controlling agreement at a higher level in the agency, and this Order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this Order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (e) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this Order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when -

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation, or appropriate authority outside the agency, or this Order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this Order.

Sec. 12. Basic provisions of agreements. Each agreement between an agency and a labor organization is subject to the following requirements --

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations --

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

Sec. 13. Grievance procedures. An agreement with a labor organization which is the exclusive representative of employees in an appropriate unit may provide procedures, applicable only to employees in the unit, for the consideration of employee grievances and of disputes over the interpretation and application of agreements. The procedure for consideration of employee grievances shall meet the requirements for negotiated grievance procedures established by the Civil Service Commission. A negotiated employee grievance procedure which conforms to this section, to applicable laws, and to regulations of the Civil Service Commission and the agency is the exclusive procedure available to employees in the unit when the agreement so provides.

Sec. 14. Arbitration of grievances. (a) Negotiated procedures may provide for the arbitration of employee grievances and of disputes over the interpretation or application of existing agreements. Negotiated procedures may not extend arbitration to changes or proposed changes in agreements or agency policy. Such procedures shall provide for the invoking of arbitration only with the approval of the labor organization that has exclusive recognition and, in the case of an employee grievance, only with the approval of the employee. The costs of the arbitrator shall be shared equally by the parties.

(b) Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

Sec. 15. Approval of agreements. An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved if it conforms to applicable laws,

existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

Sec. 16. Negotiation disputes. The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

Sec. 17. Negotiation impasses. When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

Sec. 18. Standards of conduct for labor organizations.

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for —

- (1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;
- (2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;
- (3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and
- (4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that —

- (1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section, or
- (2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

Sec. 19. Unfair labor practices. (a) Agency management shall not ~

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not ~

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) When the issue in a complaint of an alleged violation of paragraph (a)(1), (2), or (4) of this section is subject to an established grievance or appeals procedure, that procedure is the exclusive procedure for resolving the complaint. All other complaints of alleged violations of this section initiated by an employee, an agency, or a labor organization, that cannot be resolved by the parties, shall be filed with the Assistant Secretary.

MISCELLANEOUS PROVISIONS

Sec. 20. Use of official time. Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management.

Sec. 21. Allotment of dues. (a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when —

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) An agency may deduct the regular and periodic dues of an association of management officials or supervisors from the pay of members of the association who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions, when the agency and the association agree in writing to this course of action. Such an allotment is subject to the regulations of the Civil Service Commission.

Sec. 22. Adverse action appeals. The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511-7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency or the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

Sec. 23. Agency implementation. No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations, other than those for the implementation of section 7(e) of this Order.

Sec. 24. Savings clauses. (a) This Order does not preclude —

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962), or

(2) the renewal, continuation, or initial awarding of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry, which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (e) of this section.

Sec. 25. Guidance, training, review and information.

(a) The Civil Service Commission shall establish and maintain a program for the guidance of agencies on labor-management relations in the Federal service; provide technical advice and information to agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations, continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and the Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

Sec. 26. Effective date. This Order is effective on January 1, 1970 except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

RICHARD NIXON

THE WHITE HOUSE

October 29, 1969

Comparative analysis to follow.

Appendix C.

COMPARATIVE ANALYSIS OF EXECUTIVE ORDERS 10988 AND 11491

E.O. 10988 (Policy, Standards & Code)	New Executive Order	Changes
TITLE	Labor-Management Relations in the Federal Service	New title to better reflect that Order governs respective rights and obligations of labor organizations and agency management.
PREAMBLE		
Employee participation in determining personnel policies contributes to effective conduct of public business and to improved employee-management relationships. Efficient administration and employee well-being require orderly and constructive relationships with employee organizations. Clear statement of respective rights and obligations needed.	Public interest requires high standards of employee performance and modern work practices to improve employee performance and efficiency. Other clauses generally similar to E.O. 10988.	Adds statement regarding efficient work performance. Deletes statement that employee participation contributes to effective conduct of public business.
GENERAL PROVISIONS		
Free right to join or not join labor organizations. (Section 1a)	Same. (Section 1a)	None
Right to be an officer or representative, except where conflict of interest or otherwise incompatible with law or official duties. (1b)	Similar, except a supervisor may not participate in the management or representation of a labor organization (other than as excepted by sec. 2d) nor may an employee where there would be conflict or apparent conflict of interest or incompatibility with law or official duties. (1b)	Prohibits supervisors from acting as union officers or representatives, with minor exception. Adds appearance of conflict of interest to limitation on employees' right to engage in the management or representation of a labor organization.
Defines "employee organization", excluding organizations that strike or assert the right to strike, advocate overthrow of the govt., or discriminate on race, color, creed or national origin. (2)	Defines "labor organization" with similar exclusions, but adding discrimination on sex or age. Excludes organizations of managers and supervisors. (2e)	Substitutes term "labor organization" for "employer organization". Clearer definition. Except certain maritime unions, organizations of managers or supervisors are excluded from recognition as labor organizations. Non-discrimination requirement extended to include sex and age.
Supervision		
Order does not apply to FBI, CIA, or other agencies responsible for investigating internal security or counterintelligence. Excludes agency head, determines order cannot be applied consistent with internal security requirements or interests. No appeal. (3b)	Same. (3b, 4, 2, 3)	Adds definitions of key terms.
Investigation		
Agency head may suspend any provision of order, except non-reasonable adverse action, appeal right, in installations outside U.S. No appeal. (3b)	Excludes agency components which investigate employee integrity in performance of duties, when agency head determines Order cannot be applied consistent with internal security of agency. No appeal. (3b)	Adds authority for agency to exclude employees engaged in certain internal security work.
Suspension		
Agency head may suspend any provision of order, except non-reasonable adverse action, appeal right, in installations outside U.S. No appeal. (3b)	Same. (3b)	None
Employment		
Employee involved in administering a labor relations law or the Order may not be represented by organizations representing other employees subject to such law or Order. (3d)		Prohibits employers who administer a labor relations law or the Order from being represented by a union which could be party to a matter the employee would consider in the course of his official duty.

ADMINISTRATION

Each agency responsible for observing and enforcing the Order, the Standards and the Code in its own operations, with guidance, technical advice, training assistance by Civil Service Commission. CSC reviews program operations, reports to President. (12)

Establishes Federal Labor Relations Council, consisting of CSC Chairman, who is Chairman of Council, Secy. of Labor, an official of Executive Office of President, and other officials President may designate:

- to administer Order, decide major policy issues, prescribe regulations, report to President; and
- to consider appeals from decisions of Asst. Secy. of Labor, certain negotiability issues, exceptions to arbitration awards, other appropriate matters. (Sec.4)

Sets up top-level intragency committee as central authority to oversee program, settle policy issues, act as final appeals body on labor-agent disputes except negotiation impasses on substantive issues.

Parties may agree on techniques to assist in resolving impasses (6b), but arbitration may not be used. (8b)

Establishes Federal Service Impasses Panel of at least 3 members appointed by President. Panel has independent authority but is organizationally located within Council for services and staff assistance. Authorized to take action necessary to settle impasses on substantive issues in negotiations. (5) Parties may agree on techniques to assist in resolving impasses (1a), but arbitration or third-party factfinding with recommendations may not be used except when expressly authorized by Panel. (17)

Sets up high-level governmental panel (Presidential appointees) to assist parties to resolve negotiation impasse or, if they are unable to with its assistance, to itself resolve impasse (final decision).

Department of Labor assists agencies in resolving unit and representation disputes. Issues rules, arranges for advisory arbitration. Costs reimbursed by agencies. (11)

Asst. Secretary of Labor for Labor-Management Relations decides unit and representation disputes, supervises elections and certifies results, decides disputes on "eligibility for national consultation rights", decides unfair labor practice complaints and Standards of Conduct cases. Costs not reimbursed. May require agency or union to cease or desist from violation of the Order on these matters and to take appropriate affirmative action. (6)

Transfers from agency heads to Asst. Secy. of Labor authority to decide these so-called "administrative" disputes, subject to appeal to Council, and to order and supervise elections. Services provided by Labor without reimbursement.

RECOGNITION

Recognition to be accorded to qualified organizations but not to organization which agency head determines, after consultation with Secy. of Labor, is subject to corrupt or undemocratic influences. (3a, Standards 2,3)

Similar (7a, 18a), except Asst. Secy. of Labor decides whether organization is subject to corrupt or undemocratic influences. (6a,4)

Transfers from agency heads to Asst. Secy. of Labor authority to disqualify organizations from recognition because of corrupt or undemocratic influences.

No determination of right to exclusive recognition in unit not required within 12 months after previous determination. (3b)

Similar, except specifies new determination not required in unit or subdivision thereof within 12 months after prior valid election with respect to unit. (7c)

Adds policy that 12-month bar on new representation decisions with respect to unit also applies to subdivisions of unit, that bar applies only after determination based upon valid election.

Recognition does not prevent individual employee from taking up members of personal concern with agency management, or from free choice of representative in grievances or appeal. (3c1)

Same (7c1)

None

Recognition does not prevent consultation or dealings with veterans organizations or with religious, social or other organizations (with certain restrictions). (3c 2,3)

Same (7d 2,3)

None

Supervisor organizations may be recognized as "employee organizations". (1,2)

Prohibited. (2e) Separate system for communication and consultation with associates of supervisors required. (7e)

Relationships with supervisor organizations to be established outside the framework of labor-management relation

	<u>New Order</u>	<u>Changes</u>
<u>Informal recognition</u>	Informal recognition not to be accorded. (2f) Existing informal recognitions to be terminated six months from effective date of order. (26b)	Eliminates Informal recognition.
<u>Formal recognition</u>	Formal recognition not to be accorded. (2a) Existing formal recognitions to be terminated under regulations which will be issued by Council within year from date of order. (24c)	Eliminates Formal recognition.
<u>National Formal recognition</u>	National Formal recognition not to be accorded. (2a) Existing National Formal recognitions to be terminated as above. (26c) National Consultation Rights accorded based upon criteria to be established by Council. Right to comment on proposed substantive changes in personnel policies, to suggest changes in personnel policies, to confer in person on such policies and present views in writing. NCR not accorded for unit covered by National Exclusive recognition. Organization may appeal to Asst. Secy. of Labor agency decision not to grant NCR. (9)	Eliminates National Formal recognition. Substitutes National Consultation Rights with subject matter limited to personnel policy, nature of "consultation" more clearly defined, specific criteria for granting to be provided, right of appeal when NCR not granted.
<u>Exclusive recognition</u>	Exclusive recognition accorded organization selected in secret ballot election by majority of employees. (10a)	Ends granting of Exclusive recognition on basis of membership, position, authorization cards. Election required in all cases. Deletes requirement of 10% membership. Deletes 60% representative vote rule.
<u>"Appropriate unit"</u>	Similar, except unit is to ensure community of interest among employees concerned and to promote effective dealings and efficiency of agency operations. Also unit may not include supervisors (with minor exceptions), or guards together with other employees. (10b) Supervisors to be excluded from existing units within year from effective date of Order. (24d)	Adds consideration of effectiveness and efficiency of agency operations to employee community of interest as basis for determining appropriate unit. Excludes supervisors from new units and, within year, from existing units. Separates guards from other employees in new units established.
<u>No provision</u>	Exclusive recognition to represent unit of guards not to be accorded to organization which admits other employees to membership or is affiliated with such organization. (10c)	Ends granting of representation rights for guards to organizations which represent other employees. Current representation rights not affected.
<u>Exclusive recognition</u>	Same, except opportunity to be represented at "discussions" is specified as formal discussions. (10e)	Minor clarification
<u>Agreements</u>	Similar, except requires negotiation "in good faith" and makes negotiation subject to applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency	Adds requirement that both parties negotiate in good faith. Clarifies framework of law and policy within which negotiation takes place.

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S. O. 10988	New Order	Changes
Obligation to consult or negotiate does not include agency's mission, budget, organization and assignment of personnel, technology of performing the work. (6b)	Similar, except "assignment of personnel" is replaced by "the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty;" and additional area "internal security practices" is excluded. May negotiate appropriate arrangements for employees adversely affected by impact of realignment of work forces or technological change. (11b)	Clarifies exclusions from the scope of negotiations and adds new one "internal security practices".
No provision	Issues as to whether a proposal is not negotiable because contrary to law, regulation, controlling agreement, or the Order are to be resolved in a specified manner--by agreement procedures, by agency head or by Council, depending upon circumstances. (11c)	Adds rules for settling disputes on negotiability issues. Right of appeal to Council on issues involving law, regulations of authorities outside the agency, or the Order.
Application of agreement provisions is subject to existing or future laws, regulations, and FPM policies. (7)	Similar, except an agreement is not subject to future agency regulations unless they are required by law, by regulations of an authority outside the agency, or are authorized by controlling agreement. (12a)	Adds policy to protect an agreement, during its term, from effect of change in agency regulations unless the change is required by outside authority.
Agency management retains right to direct employees; to hire, promote, assign, retain, discipline or lay off; to maintain efficiency; to determine methods, means and personnel for doing the work; to take necessary action in emergency. (7)	Same. (12b)	None
No provision	Agreement may not require an employee to become or remain a union member, or to pay money to a union except as he voluntarily authorizes for payment of dues through payroll deductions. (12c)	Prohibits agreements providing for union shop, agency shop, or maintenance of membership.
Agreements may contain grievance procedures which meet CSC standards and do not impair rights otherwise available to employees. Advisory arbitration may be used with approval of union and employees concerned. Arbitrator's recommendation subject to decision of agency head. (8)	Agreements may contain employee grievance procedures which meet CSC requirements, may make them the only grievance procedures available to employees in the unit, and may provide for arbitration (with union and employee consent and cost-sharing by union and agency). Agreements may also contain procedures for consideration of disputes over interpretation and application of agreement, including arbitration of such disputes with consent of the union (cost-sharing by union and agency). Under both employer grievance procedure and agreement dispute procedure either party may file exceptions to arbitrator's award with the Council, subject to its regulations. (13,14)	Permits elimination of dual "agency system" and "negotiated system" for resolving employee grievances. Eliminates "advisory" arbitration, providing limited appeal to the Council from arbitration awards. Authorizes procedures for resolving disputes arising in administration of agreements, including use of arbitration. Requires that costs of arbitrator be shared equally.
Basic or initial agreement must be approved by agency head or his designee. (7)	All agreements are subject to approval by agency head or his designee. Agreement must be approved if it conforms with law, published agency policies and regulations (unless agency has granted exception), and regulations of other appropriate authorities. Local	Limits agency headquarters authority to disapprove locally negotiated agreements. Disapproval must be based solely upon conflict with applicable law, policy or regulations, not "second guessing" on appropriateness or desirability of agreement provisions.

E.O. 10988	New Order	Changes
	agreement subject to controlling agreement at higher level is approved under procedures of controlling agreement. (15)	
NEGOTIATION DISPUTES AND IMPASSES		
No provision	Federal Mediation and Conciliation Service is directed to assist parties in resolving negotiation disputes, subject to its rules. (16)	Authorizes full FMCS services to assist parties in negotiating agreements.
No provision	If FMCS or other third-party mediation fails to resolve a negotiation impasse either party may request the Federal Service Impasses Panel to consider the matter. Panel may, in its discretion and under its rules, consider the impasse, may recommend procedures to the parties for resolution of impasse, or settle the impasse itself. Arbitration or third-party factfinding with recommendations may be used by the parties only when authorized or directed by the Panel. (17)	Adds FSIP services to bring about final resolution of negotiation impasses if mediation is unsuccessful
CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT		
Standards of conduct for employee organizations require recognized organizations to subscribe and adhere to internal democratic practices, exclude from office persons affiliated with communist, totalitarian or corrupt influences, prohibit officers and agents from having business or financial conflicts of interest, maintain fiscal integrity. Agency must deny, suspend or withdraw recognition if it determines, after hearing and consultation with Secy. of Labor, that organization does not meet the Standards.	Same (18a,b), except organizations also required to file financial and other reports, provide for bonding of organization officials and employees, meet trustee and election standards. (18c) Astt. Secy. of Labor prescribes regulations, decides alleged violations. (18d,e)	Adds Landrum-Griffin type financial disclosure and other requirements. Transfers from agencies to Astt. Secy. of Labor responsibility for enforcement.
Code of Fair Labor Practices prohibits certain unfair labor practices by agency, management and recognized organizations. Unless complaint of violation is subject to available grievance or appeals procedure, agency investigator(s) for informal resolution utilizes impartial procedures including hearing if substantial cause established; decides whether violation occurred; directs appropriate remedial action by management or organization. Enforcement of strike and picketing prohibition not subject to impartial procedures provided for other alleged violations.	Same prohibited practices for agency management. (19a) Similar prohibited practices for labor organizations, with additions that organization may not coerce, discipline, fire or take other economic sanction against a member as punishment for or to hinder his work performance or productivity (19b,1), may not condone strike or prohibited picketing activity by failing to take affirmative action to prevent or stop it (19b,4), may not discriminate in membership because of sex or age (19b,5), may not refuse to consult or negotiate with agency as required by the Order (19b,6). Unless complaint of violation is subject to an established grievance or appeals procedure, when complaint not resolved informally by the parties it is filed with astt. Secy. of Labor who decides case and directs appropriate remedial action by agency or organization. (19d,e)	Adds to list of unfair labor practices by organizations and clarifies certain provisions. Transfers from agencies to Astt. Secy. of Labor responsibility for impartial procedures and enforcement, including anti-strike and picketing provision.
MISCELLANEOUS PROVISIONS		
Solicitation of memberships, dues, or other internal organization business shall be conducted during non-duty hours of employers concerned. (9)	Same (20)	No change

E.O. 10988	New Order	Changes
Officially requested or approved consultations and meetings between management and organization shall be conducted on official time whenever practicable. (9)	No provision	Deletes policy on official time for consultations or meetings requested or approved by management.
Agency may require that negotiations be conducted during non-duty hours of organization representatives. (9)	Organization representatives shall not be on official time when negotiating agreement with agency management. (20)	Prohibits authorizing official time for employees acting as organization representatives in negotiations with management.
No provision. (Employee voluntary allotments for payment of dues to organizations eligible for formal or exclusive recognition are made pursuant to agency-organization agreements based upon CSC regulations. Policy established by President's Memorandum of May 21, 1963)	Authorizes voluntary dues allotments by organization's members in unit of recognition pursuant to agency agreement with labor organization which holds formal or exclusive recognition, subject to CSC regulations. (21a)	Revises policy on voluntary dues allotments. Limits authorization of allotments to members in units for which labor organization holds formal or exclusive recognition and has allotment agreement with agency.
No provision	Authorizes voluntary dues allotments pursuant to agency agreements with associations of management officials or supervisors, subject to CSC regulations. (21b, 7e)	Adds authorization for dues allotments to managerial and supervisory organizations.
All employees in competitive civil service have same rights in adverse action cases as preference eligibles under sec. 14, Veterans' Preference Act. Right of appeal to Civil Service Commission. CSC decision binding upon agencies. (14)	Same (22)	No change
Agencies issue policies and regulations for implementation of Order, after consultation with appropriate organizations. (10)	Similar. Action to be taken by April 1, 1970. (23)	Agency implementing policies required within 3 months from effective date of Order.
Order does not preclude renewal or continuation of lawful agreements between agencies and organizations entered into prior to January 17, 1962. (15)	Same (24a1)	Continues "grandfather" provision of E.O. 10988. Currently applicable to TVA and certain agreements in Interior and Transportation.
Except where otherwise required by established practice, prior agreement or special circumstances, no unit shall be established for exclusive recognition which includes (1) any managerial executive... (3) both supervisors...and the employees whom they supervise... (6a)	Exception from unit criteria limited to units of management officials or supervisors represented by labor organizations which traditionally represent these officials in private industry and hold exclusive recognition for such units on date of the Order. (24a2)	Continues "established practice" exception for managerial and supervisory representation by labor organizations in maritime industry which represent officers and crews on vessels. Applicable to MSHA, MMP, NMU, SIU, and UTW.
No provision	Existing informal recognitions terminate on July 1, 1970. (24b)	Eliminates all informal recognition 6 months from effective date of the Order.
No provision	Existing formal recognitions terminate pursuant to Council regulations to be issued before October 1, 1970. (24c)	Directs council to provide regulations within one year from issuance of the Order which will eliminate all formal recognition.
No provision	All supervisors other than those excepted sec. 24(a) are excluded from units c. formal and exclusive recognition and coverage by negotiated agreements before December 31, 1970. (24d)	Eliminates all representation of supervisors by labor organizations within one year from effective date of the Order (except supervisory employees on vessels - currently 24 units).
CSC provides assistance to agencies and organizations in carrying out objectives of Order. Furnishes guidance, technical advice, training assistance to agencies. Studies and reviews programs, recommends improvements to the President. (12)	CSC provides guidance, technical advice and information, and training assistance to agencies. Reviews operation of programs to assist in assuring adherence to its provisions and merit system requirements. From time to time, reports to Council on state of the program and recommends improvements. (25a)	Deletes CSC overall program functions (incorporated into functions assigned to the Council). Adds review and evaluation of program operations, with reports and recommendations to Council.

File No. 10988	<u>New Order</u>	<u>Changes</u>
No pre-1961	Department of Labor and Civil Service Commission to collect and disseminate program information to agencies, organizations and the public. (25b)	Adds responsibility for Labor and CSC to publicize information needed by agencies, organizations and the public.
Order 10988 dated January 1, 1962	Order effective January 1, 1970, except sections 7(f) and 8 which are effective immediately. (26)	Provides about 3 months "get-ready" time to staff and organize the Council, the Panel, and the Ass't. Secy. of Labor functions. Agencies discontinuing granting new informal and formal recognitions immediately upon issuance of Order.

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11 SUPPLEMENTARY NOTES		12 SPONSORING MILITARY ACTIVITY Naval Air Systems Command
13 ABSTRACT This thesis gives the historical background of Navy-labor relations, discusses Executive Orders 10988 and 11491, the postal strike, and other factors that influence today's collective bargaining in government agencies. Since the Naval Missile Center is preparing to negotiate its first union contract, the following points are discussed: For the Naval Missile Center to benefit from the union contract to be negotiated there are several things it must accomplish. First, it must develop a positive attitude toward cooperative labor relations by willingly acknowledging the right of the union to represent the employees of the unit. It must establish a program of two way communications with all supervisory personnel so they actually become part of management. It must establish a program for supervisors so they are completely familiar with the terms of the negotiated agreement. It must establish a retraining program to reorient the supervisors to a changing group situation involving the emotional reactions of the supervisors to unionism. Last, the Naval Missile Center must prepare the negotiation team so it can take advantage of the opportunities presented by the negotiation process and so it can create an agreement that will promote the effective and efficient operation of the Naval Missile Center.		

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